United States Court of Appeals

for the Second Circuit

TRANSCRIPT

75-7061

UNITED STATES COURT OF APPEALS

for the

B

SECOND CIRCUIT

TRINITY EPISCOPAL SCHOOL CORPORATION and TRINITY HOUSING COMPANY, INC.,

Plaintiffs-Appellants,

ROLAND H. HARLEN, ALVIN C. HUDGINS and CONTINUE,

Intervening Plaintiffs-Appellants,

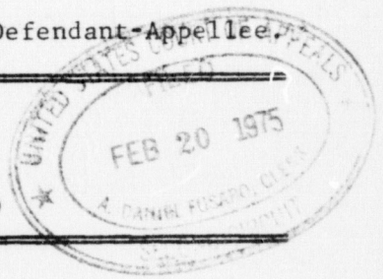
v.

GEORGE ROMNEY, SECRETARY OF DEPT. OF HOUSING AND URBAN DEVELOPMENT, S. WILLIAM GREEN, REGIONAL ADMINISTRATOR, DEPT. OF HOUSING AND URBAN DEVELOPMENT, U.S. DEPT. OF HOUSING AND URBAN DEVELOPMENT, CHARLES URSTADT, COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL, N.Y. STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL, THE STATE OF NEW YORK, JOHN V. LINDSAY, ALBERT A. WALSH, HOUSING AND DEVELOPMENT ADMINISTRATION OF THE CITY OF NEW YORK, THE CITY PLANNING COMMISSION OF THE CITY OF NEW YORK, DONALD H. ELLIOTT, WALTER MCQUADR, IVAN MICHAEL, GERALD L. COLEMAN, CHESTER RAPKIN, MARTIN GALLENT, ABRAHAM D. BEAME, SANFORD D. GARELIK, PERCY E. SUTTON, ROBERT ABRAMS, SEBASTIAN LEONE, SIDNEY LEVISS, ROBERT T. CONNER and THE CITY OF NEW YORK,

Defendants-Appellees,

STRYCKER'S BAY NEIGHBORHOOD COUNCIL INC.,

Intervening Defendant-Appellee.



TRANSCRIPT

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COUNSEL PRESS, INC., 55 West 42nd Street, New York, N.Y. 10036 • PE 6-8460

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MR. MORRIS: Your Honor, I object to counsel

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Trinity Episcopal School Corp., et al

vs. 71 Civ. 4315

George Romney, et al.

New York, New York.
May 15, 1974 - 10:05 A.M.

(Trial resumed.)

THE COURT: Gentlemen, will you please proceed.

MR.DOUW: May I make one comment. You directed that copies of the exhibits be delivered to you by today. All of the exhibits, Defendants' exhibits, are in Mr.Gold's file and I understand from Mr. Liner they are presently being Xeroxed.

We hope they will be delivered to you by today.

THE COURT: Thank you very much.

MR. MORRIS: Our exhibits were delivered to the Court yesterday.

THE COURT: We have already made use of them. We thank you for them.

All right.

MR. LAND: The Government calls S.William Green.

THE COURT: Gentlemen, as I pointed out to you before the case began, I am known and he is known to me

favorably, that is,your witness, your next witness. I don't mind telling you that I have known the Commissioner and his family for some 20, 30 years. I recall vividly the day when he was trying to make up his mind about becoming a lawyer and I am awfully glad that he did. I have a high opinion of him as I did of his family. But you knew that and I pointed that out before we began the trial.

You all nod your heads and you know.

S. W I L L I A M G R E E N, called as a witness by the Government, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. LAND:

Q Mr.Green,with whom are you currently employed?

A By the United States Department of Housing and Urban Development.

Q What is your position?

A I am regional administrator for Region 2.

Q And how long have you been regional administrator of Region 2?

A I was in Region 1 when I was sworn in in 1970, and then the regions were realigned in September of 1970.

Q What geographic area does your region include?

A New Jersey, New York, Puerto Rico, Virgin Islands

and the Canal Zone.

Q What, in general terms, are your responsibilities as the regional administrator of Region 2?

A I am responsible in that geographical jurisdiction for the administration of all HUD programs that have been delegated to the field office, including the public housing, the FHA housing programs, the Urban Renewal program, the Model Cities program, the Section 701 Planning Program, and a number of other departmental programs.

Q Prior to 1970 when you came to the Department of Housing and UrbanDevelopment, what is your occupation?

A I was an attorney in private practice in New York City. I had also been an Assemblyman from the years 1965 through 1968, and I had been counsel to the Joint Legislative Committee on Housing and Urban Development from 1961 through 1964.

Q In connection with your service to the State Legislature, what were your primary interests?

A Because I had been counsel to the Joint Legislative Committee I was actively interested in the housing field. When I had been counsel to the committee I participated with others in the drafting of the present version of Article 15 of the General Municipal Law, which is the urban renewal provision in the recodification of

the provisions relating to State and local assistance to privately-owned housing, the private housing finance law, the development of the State condominium law, redrafting of portions of the State multiple dwelling law, so they would be consistent with the new city zoning ordinances that became effective in 1961 and a number of other proposals in the housing area.

Q Have you had occasion to teach?

A I have twice taught a series of lectures in the adult education program in the Center for New York City Affairs of the New School, and am scheduled to teach that again this fall.

I have also participated in seminars on an occasional basis, twice at Yale Law School, for example, twice at the Columbia School for Architecture, and on other occasions.

Q What subject matters have you taught?

A Basically the Federal Housing and Urban Development programs.

Q In the course of your teaching duties, have you had occasion to set forth what is known as the project selection criteria guide of the Department of Housing and Urban Development?

A I have included that in the curriculum as well

as the Department's overall responsibilities under the Fair Housing Title of the 1968 Civil Rights Act and these criteria to some extent involve the Department's implementation of that Title with respect to assisted housing programs.

Q Does the project selection criteria required by the Department of Housing and Urban Development deal in part with the sociological phenomenon known as tipping?

A Yes, in project selection criteria Number 2, that subject is addressed.

Q Could you give us your definition of tipping?

A Tipping is when there is a change in the populationof a neighborhood from a mixed neighborhood to a substantially all-minority neighborhood, generally occurring quite visibly and over a relatively short period of time.

Q Could you tell us what the primary characteristic of tipping is?

A Basically a change from an integrated neighborhood as if non-minority families move out and minority families move in and quite rapidly change a neighborhood from one that is perceived as being an integrated neighborhood to one that is perceived as being a substantially all minority neighborhood.

Q Could you give us some examples of such a rapid change in population which might signify a tipping situation?

A We have had changes like that in New York City, in parts of the Bronx and various parts of Brooklyn. What characterizes it as tipping is when the rate of change is very high. For example, if you had a neighborhood which started out 10 per cent minority and in a couple of years went up to 20 per cent minority, I would say that that neighborhood would be in the tipping process unless something came along to erase that, whereas a neighborhood with 25 or 30 per cent minority population and stayed stable over a period of time would not be tipping.

Q Suppose the community you described with 25 or 30 per cent population and over a period of time of a few years the minority groups two or three per cent.

A I would not think that constituted tipping.

Q In addition to the rate of change of the population mix, what else is significant in determining a tipping issue within a community?

A Basically the attractiveness of a community to its residents which in turn reflects the kind of community facilities that are available, shopping, police protection, fire protection, heat facilities, transportation to and from places of employment, cultural facilities. For example,

in the area involved in this litigation I think the fact that the area has ready access to Lincoln Center, Carnegie Hall and the theatrical district has made it a very attractive place for people in New York City who are part of the artistic, cultural, theatrical community who aspire to be in that community and therefore, because of the access to these cultural facilities, it has a capacity to hold people who have these interests which another neighborhood might not be able to do.

Q Considering the dual factors of a rapid change in population mix over a short period of time and the quality of community services which you just described, in your judgment, then, a relatively small increase in minority concentration within a community which already had some integration mix would not necessarily cause tipping providing the community facilities were adequate for the needs of that community?

A Yes, that's my opinion.

Q Mr. Green, have you read and are you generally familiar with the project selection criteria study in respect to Site 30 of the West Side Urban Renewal area?

A Yes, I have read it and I am generally familiar with it.

Q For the record, that is Government's Exhibit B.

THE COURT: Will you show it to the witness.

MR. LAND: He has it in front of him .

THE COURT: All right.

Q Could you describe to us what a project selection criteria study is?

A It is a study required by our Department's regulations before we approve of subsidized housing projects. It is designed by the Department to provide an objective basis on which area offices can decide whether or not to fund specific projects. The criteria are a total of eight for multi-family housing and basically if a project gets a poor rating on any one of those, the project will not be funded by the Department. If it gets a superior, adequate rating that is acceptable, of course.

Q Let me understand this. The project selection criteria has eight separate areas of study?

A Yes, that's right. There is some interrelation between various of the criteria but there are eight basic criteria that have to be evaluated by an area office before it may approve a project under the system.

Q As to each of the eight categories, each one I understand is rated either -- how are they rated?

A Superior, adequate or poor.

Q And if on any one of the eight a poor rating

is given, what will result?

A The project cannot be funded.

Q And that is the law?

A That is our regulation.

Q Under what circumstances does the Department of Housing and Urban Development conduct and prepare a project selection criteria study?

A We are required to do it for all assisted multi-family housing or subsidized multi-family housing.

Q And that will include Site 30 as a low income housing project?

A That's correct, or as a moderate income housing project.

Q Mr.Green , you do have in front of you a copy of the site selection criteria study for Site 30?

A Yes.

Q I would like, if possible, for you to go through each of the eight criteria indicated in the study, explain what they mean to the Court, and explain to the Court the rating given to each of the criteria by your Department and the reasons therefor.

A The first criterion --

MR. LAND: Does the Court have a copy?

THE COURT: No. I have a general notion, I

will listen very carefully. Do not spare the horses. Explain it fully as though I had never heard a word about it.

THE WITNESS: Yes, your Honor.

A The first criterion is whether there is a need for low or lower income housing within a community. The purpose of the criterion is to identify proposed projects which will serve the most urgent unmet needs for housing for lower income households, so that the funds would not go into a community where there is an adequate supply of housing when another community had a much greater need.

The project was given a superior rating based on the area office's evaluation of the housing needs in New York City and the very long waiting list that the Housing Authority had at the time and continues to have, so that the area office gave this a superior rating because they felt there was a great need for additional housing in New York City.

The second --

Q Before you go to the second, does the study indicate the approximate number of eligible families on the Housing Authority's waiting list?

A It says there are over 125,000 eligible families.

The second criterion deals with minority housing

opportunities and its purpose is to provide minority families with opportunities for housing in a wide range of locations and to open up non-segregated housing opportunities in order to try to ameliorate the effect of past housing discrimination.

Under that criterion a project can only -- a project cannot get a superior rating if it is in a racially mixed area. It can get a superior rating if it is in a substantially all non-minority area, so that it would be the first integration in that area or if it is in an area of minority concentration, in other words, an area that is substantially all minority, but it is part of an official state or local redevelopment plan, and there are comparable opportunities for housing for minority families in the income range to be served outside the area's minority concentration.

So if the community elsewhere has been providing integrated housing opportunities we can thus approve as superior a project in a substantially all-minority area that will conform to a State or local redevelopment plan, like an urban renewal plan.

So that no project in a mixed area could get a superior rating. A project can be given an adequate rating in a racially mixed area if the proposed project will not cause a significant increase in the proportion of

minority to non-minority residents in the area.

And the rating in this case indicates that the project was given an adequate rating based on that criterion.

Q Are you going to Item 3?

A Yes.

Q Before you go to Item 3, could you give us some percentage of minority concentration which can exist for a superior rating on Item 2?

A In other words --

Q Are there regulations that fix a percentage?

A There is no fixed percentage, but I would say as a rule of thumb if a neighborhood is more than 10 or 15 per cent minority, we would consider it a mixed neighborhood rather than one that was substantially all non-minority.

Similarly at the upper end of the scale.

Q So of necessity the West Side -- the community within the West Side of minority currently under stody could not receive a superior rating because it had a concentration of minority in excess of 15 per cent?

A Yes.

Q And the rating as to Item 2 is not one of a judgmental factor in terms of the community itself, it is simply in terms of the concentration of minorities, is that not correct?

MR. MORRIS: Your Honor, I object to counsel making a speech.

THE COURT: It is a leading question. You object to it as being leading?

MR. MORRIS: I do.

THE COURT: Reframe it.

Q Is the purpose of Item 2 to make a judgment as to the stability of a neighborhood?

THE COURT: What is the purpose of it?

Q What is the purpose of Item 2?

A Basically the purpose of Item 2 is to deal with our obligations under Title 8 of the 1968 Civil Rights Act, that is, it is to give preference to projects which will provide integration and to make sure that we are not going to tip neighborhoods into all minority neighborhoods.

Q YOu mentioned the word "tipping." Is Item 2 that part of the study in which the tipping phenomenon is considered?

A Primarily it is project selection criterion 2. Project selection criterion 3 deals with improved location for lower income families. Again, the purpose is to avoid concentrating subsidized housing in any one section of a metropolitan area or municipality, to provide lower income households with a wide range of locations in making

their housing choices, to locate subsidized housing in sections that have facilities and services typical of those contained in neighborhoods with largely standard unsubsidized housing, and to locate subsidized housing in areas accessible to job opportunities.

A superior rating can be given under project selection criterion only if a project is going to be located in a section that contains little or no Federally-subsidized housing or is part of a new community development plan under our new Units Program.

Again, this project could not qualify for a superior rating because there is other Federally-assisted housing in the neighborhood and it is not part of a new community program.

The project was given an adequate rating as permitted under this criterion because it is in an urban renewal area, and the housing is required to fulfill the urban renewal plan so that that permits the giving of an adequate rating and that is what was given in the case of this criterion.

Criterion 4 deals with relationships to orderly growth and development. Its purpose is to assure that the development is consistent with principles of orderly growth. It is to prevent urban sprawl, premature

development or over-development of land before there are adequate supporting facilities, to insure housing is consistent with officially --

THE COURT: He always did from boyhood on talk fast. He always did. YOu have got another colleague in that defect. Let's call it what it is.

THE WITNESS: I will try to slow down, your Honor.

A To develop housing in a way that is consistent with Governmental land use plans and particularly to encourage the formulation of area-wide plans which have a housing element that is responsive to the needs of lower income families throughout a metropolitan area.

The project was given a superior rating basically because it is consistent with the housing element of a local officially-approved land use and development plan and it is consistent with metropolitan and regional plans.

Q As to Item 4 which deals with the orderly growth and development of the area, would to some extent Item 4 include factors relating to tipping?

A To some extent, but, frankly, those are primarily addressed under Criterion 2 and to a lesser extent Criterion 3. Criterion 4 really looks more to the control of surburban developments in an orderly way. I don't think that is where the criterion really hit the tipping question.

Q Okay.

A And Criterion 5 is relationship of the proposed project to the physical environment. It is designed to maintain or develop an attractive physical environment, to avoid adverse environmental impacts. The project was given a superior rating by the area office again basically because of its consistency with the urban renewal plan, a review of the design standards and a review of the environmental situation which is also embodied in environmental clearance that the project received.

Number 6 is a question of ability to perform. Again the project was given a superior rating based on the track record of the Housing Authority and of the developer, that the project would go up promptly in accordance with the contract of the Housing Authority with us and the builder with the Housing Authority.

Criterion 7 is potential for creating employment and business opportunitties. Again the project received a superior rating based on the implementation by the Housing Authority of a municipal executive order requiring training in the construction trades and the Authority's own internal career program which has given minority employees of the Authority a chance to advance into the higher paying jobs in the Housing Authority.

So based on our experience there with the Authority in the past, the project received a superior rating.

The final criterion --

Q One question. As to Number 7, one of the factors you mentioned in the tipping phenomenon is community facilities, including job opportunitties. To the extent that Item 7 considers employment of minority groups, does that in part relate to the tipping issue?

A Again, because the Housing Authority draws its employees and the building contractor draws its employees from a city-wide or larger pool, I doubt that that would have a great impact in the neighborhood, although the Housing Authority and we do encourage the use of residents of public housing as employees of the Authority.

In fact, we recently issued a regulation requiring within a couple of years Housing Authorities have at least -- larger housing authorities have at least 25 per cent of their employees be project residents. So to the extent that this program of the Authority and our requirement will provide employment opportunitties for project residents, it obviously does increase the employment opportunitties open to them and thereby contribute to the stability of the families.

The final provision --

THE COURT: I should think that that would be a source of additional effort by such employees because they are working on something that is going to relate to their own future homes.

THE WITNESS: We certainly feel it does go to improve maintenance in the projects.

A The final criterion, Number 8, provision for sound housing management, does address that issue, how the projects will be maintained.

Again we did a major review of the management operations of the New York City Housing Authority in early 1971, using not only our local people but also people pulled in from our housing management staff in Washington. We reached the conclusion that the New York City Housing Authority is a very professional operation, one of the best in the country, and for that reason the project was given a superior rating in terms of the potential for good housing management.

After those specific items, this then are in the study the backup materials on the basis of which the area office reached the ratings that I have just gone through.

Q Before you go through that, I want to make it

clear for the record that the backup material to the eight-part study is approximately a half inch in thickness and this backup material is the backup material to support the conclusions reached in the eight categories, is that correct?

A Yes, that's right.

Q Could you go through in sequential order the materials which were included in the study and briefly tell the Court the relevance of the documents annexed hereto?

THE COURT: Without reading the actual language, giv me the A, B, C's of it as though you were trying to rivet my attention to a point or points which will be supplemented by a very close reading of the material itself by the fact finder.

In other words, there is no sense in doing it both ways. I have it right there in the exhibit, but if you can somehow summarize it and give me the highlight of it, that would be helpful.

Would that content you?

MR. LAND: Exactly.

A The first document is a document prepared within the area office. It goes through the facts that I have discussed briefly about the waiting list of the Housing

Authority, breaking it down in somewhat more detail by bedroom count and so forth.

THE COURT: IN order to prove the point?

THE WITNESS: In order to prove the point with respect to the need.

In terms of the situation in the project area and whether this would produce a tipping effect or substantial increase in the percentage of minority families, there is a review by the area office of the location of the housing, the general breakdown of non-minority families in the general neighborhood for a radius of one mile around the proposed site and also a breakdown of the minority population, again making the point that the area is over 70 per cent non-minority reviewed in that wider scope. It reviews the other assisted housing in the area, both Federal and State, what its status is, whether it is open or under construction or simply in the planning stage.

It reviews the recreational and cultural facilities in the neighborhood. It reviews the school situation, particularly noting that where there is overcrowding in the high school at the time, there were high schools under construction which would deal with that problem.

THE COURT: And alleviate that problem?

THE WITNESS: Yes.

MR. MORRIS: May we have an indication from the witness as to whether this material to which he is referring was prepared by the area office or by the Housing Authority?

THE WITNESS: This document draws on many sources. The document now is an area office document. They do ask for material from the Housing Authority, from the City Planning Department and other sources. The area office often goes to school data and so on.

MR. MORRIS: Then the material is a conglomerate of material furnished by the City agencies as well as by the local office, is that right?

THE WITNESS: The area office doesn't go out itself generally and count the number of children in the schools. It does rely on various agencies to present it with data. Where there are quarrels about that data, the area office then tries to investigate it further to establish what the facts are.

Basically it is the responsibility of the area office to reach conclusions as to the accuracy of data and the area office may not simply say "The Housing Authority gave it to us, therefore it is okay."

The document then goes through the various facilities servicing the neighborhood, fire stations, police

department, health facilities, shopping availability. There is rather brief treatment of the issues relating to orderly growth and development because the area office relied on the urban renewal plan as basically establishing a proper development in the area.

Similarly in terms of the relationship to physical environment. There is a short treatment of ability to perform, showing the past experience of the Housing Authority, again on the terms of minority employment and business opportunities.

A brief description of the City's program requiring training the construction trades for minority workers on City-assisted construction, as well as the policy of the City Housing Authority and thenthere is a reference to the special HUD review of the Housing Authority's management practices which I referred to in my testimony.

The next document is a statement of policy by the Deputy Mayor of the City of New York on the City's program for trying to produce integrated housing and the program for having assisted housing in middle income as well as low income neighborhoods.

Q And that was executed by whom?

A That was by Edward Hamilton, then Deputy Mayor.

Q Why is a document like that significant for this

type of study?

A Basically as one is considering criteria 2 and 3, the City's policy in this respect is one of the issues that would have to be considered.

Q All right.

A The next document is an internal memorandum from the chief of the Planning and Relocation Branch in the area office rendering an opinion to the program manager for New York City on what area should be considered in doing the studies required by the project selection criteria and again particularly Criterion 2, and it states that in his judgment the area involved is the area between West 59th Street and 110th Street, and that a sub area can be considered the neighborhood of the West Side Urban Renewal project, which is Central Park West to Broadway and 87th and 97th.

Q East-west, what are would that include?

A It is not stated here, east-west other than with respect to the urban renewal area. In my opinion, Central Park is such a natural boundary that I would not consider areas east of Central Park as being part of this neighborhood.

Q How far west would you go?

A The whole neighborhood. I would cover the area from Central ParkWest to the Hudson River.

MR. MORRIS: You read before that the Urban REnewal area goes over to Broadway. It does not. It only goes to Amsterdam Avenue.

THE WITNESS: I am quoting the area as to what sub area should be considered in the document. The document says the subsection can be defined by Central Park West, Broadway, 87th Street and 97th Streets. That is the opinion of the director of the branch that this was a section of the larger neighborhood he had described.

Q Why is it necessary to consider what is a neighborhood? What is the relevance of this neighborhood business?

A In deciding what percentages of the population are minority, you obviously have to see what the universe is that you are ccunting.

Q Okay.

A The next document is an article in the New York Times analyzing ractial patterns and changes th:oughout New York City, including Manhattan, and particularly indicating that in 1970 the area covered by the renewal project was between 75 and 90 per cent white.

THE COURT: I take it that you have read that article in the New York Times?

THE WITNESS: Yes, I have.

THE COURT: What is your professional estimate of it?

THE WITNESS: I believe the article is accurate. Now, there are problems in terms of census data, one in terms of an undercount of minority families generally which the Census Department has acknowledged did occur to some extent. Obviously it is very difficult to say what extent. Also the Census Department did not count third generation Puerto Ricans as Puerto Rican and that, too, obviously has to obviously effect the numbers, whether they should be considered as Puerto Rican or non-minority.

THE COURT: Its general observations, though, meet with your approval?

THE WITNESS: Yes.

Q Chart in particular in that item of New York Times article is the chart showing the people receiving welfare in Manhattan from 1965 through 1971.

Do you have that in front of you?

A I found the 1965 chart.

Q '65 and '71 are together.

A Yes, that's right.

Q Could you give us your observations of that and the relevance of the welfare situation?

A The chart for 1971 appears to show, and its not too well reprinted here, but as I measured it, there is a break at 94th Street, presumably reflecting a break in census tracts, and it shows that in the area in the project south of 94th Street the welfare case load in 1971 was from 5 to 15 percent of the population. It appears that in the area north of 94th Street the welfare case loan was from 15 to 20 percent of the population.

MR. MORRIS: I move that the testimony be stricken on the ground of hearsay. Reading from a New York Times report and saying what that shows is not proper testimony before this Court.

Now, if they are introducing it merely to indicate that the project selection criteria contains that and to refer to the fact that that's it, then it is unobjectionable, but if they are producing it for the truth of what is contained in the article I would respectfully request it be stricken.

THE COURT: Number one, its a part of the exhibit.

MR. MORRIS: That I say I have no objection to, but I object to the testimony if it is adduced for the purpose of establishing the truth of what the article reveals.

THE COURT: I understand that phrase, but you heard it if you limited questions I put to the witness with regard to his estimate. He can be shown anything. His estimate of what is shown to him is admissible and is entitled to weight. I see nothing wrong in that.

MR. MORRIS: Yes, it is, and I agree, your Honor, however, my objection is to his reading from the report itself, which is pure hearsay. His own testimony as to what he evaluates it I agree is admissible. But he is reading from the report itself and that is the basis for my objection.

MR. LAND: He is not reading from the report. He is analyzing the report so he can form an opinion in support of a judgment that he made.

MR. MORRIS: That isn't what he did. He was reading it.

MR. LAND: I only got one question out so far. You haven't heard the second one.

THE COURT: I will let the record stand. Objection overruled. Proceed.

Q Mr. Green, assuming that the chart depicted in the New York Times article is accurate, comparing the mid west side area in terms of people receiving welfare to all of Manhattan, do you have an observation or an

opinion as to the stability of the mid west side area in terms of the welfare data?

A It's my opinion that the percentage of people receiving welfare, assuming this data is accurate, is not so great as to create neighborhood instability.

Q And compared to the rest of Manhattan?

A It is certainly significantly lower than in other parts of Manhattan, although there are parts of Manhattan, such as the east side, where there is less than 5 percent welfare tenants.

THE COURT: Mr. Morris, please do not have any misapprehension as to the Court coming to any conclusion that the accuracy of that particular table has been established. Of course not. The witness was shown it. He has not indicated he checked it out. He doesn't give it authenticity. He looks at it. He sees something there and he says assuming it is correct, and that's what I interpreted was the tenor of his remarks.

All right.

MR. LAND: Perhaps one thing would be important at this juncture, your Honor. We introduced this document into evidence without objection. As the Court well knows, and I think I am correct in this statement, records

supplied by the government are presumed correct and made in the ordinary course of business and that presumption of correctness continues until error is shown to exist.

THE COURT: I should think so, but that statement places an awful burden. How is Mr. Morris to undertake an attack on that table? That's a terrific burden.

MR. LAND: The first place to go to attack it would be to get ahold of the person who wrote that particular article for the New York Times and examine him if he has serious dispute that that table was accurate. I have no serious dispute it is accurate. It is existent with all the other charts and details we have. In particular, the Court will recall Mr. Kristof on the witness stand referring to the census figures for the year 1970, and I think that those very census figures will in fact support this chart which is graphic solely for the purpose of representation.

THE COURT: That makes it relatively easy, but assuming we didn't have any such testimony, I still would like to know what the law has to say where you do have a complicated situation capable of being reduced to table form, a sort of precipitant and usually a concentrated precipitant at that, and you fling it into a public document and it becomes -- it goes into

evidence and I am asked to accept it as though it had been proven to the hilt. I am not disturbed by that. I am disturbed by the enormity of the challenge and the burden cast on the opposition with regard to attacking such an almost fort incapable of being pierced at first glance.

What do you say?

MR. MORRIS: Your Honor, the whole issue of the number of welfare tenants in the West Side Urban Renewal area has been an issue right through this case. We have made every effort to locate records from the city which would demonstrate the number of those welfare tenants and we have adduced some testimony as part of our case as to how many there are.

However, that is information which is well within the knowledge of the defendants in this case and is something which we respectfully submit should be produced by them even though we make every effort to ascertain it and couldn't get it from them. To put it in the way they are talking about putting it in here in the manner in which your Honor just described so accurately I think is an improper way to adduce that kind of testimony which is relevant and should be adduced.

MR. LAND: One point. Mr. Morris said he made

every effort to obtain these records. I know of no request for interrogatories, request for production of documents nor do I know of any discovery conducted by plaintiffs during the three years this litigation was pending prior to trial. Absolutely no discovery to my knowledge. I think Mr. Morris is making a statement in bad faith when he says he made every effort.

THE COURT: Don't say bad faith. He is mistaken. Please. That is a very important distinction.

MR. MORRIS: First of all, we did serve subpoenas upon the city and obtained access from the city to all of their records relating to this situation and spent weeks going through all of the city's files to ascertain the kind of information required.

As your Honor well knows, this case did not come to the Court for trial in the ordinary way after all pre-trial procedures had been exhausted and the case was prepared. Your Honor recalled how this case came to the Court. It was for a motion for a temporary injunction, and that motion, after we started adducing testimony at an evidentiary hearing was converted by the Court into a full trial. Therefore, to criticize the plaintiffs for not having pursued the pre-trial remedies which are available is improper.

THE COURT: You have got something there. At any rate, we seek to be enlightened and we do not care on whom the burden is cast. You all have to take the burden. If the city has any information, if the United States has any information, you owe it to the Court, aside from even assuming, for the sake of argument, the other side was not on its toes, and I don't say that for a moment. But assume that for the sake of argument. I still need the material for the factfinder. I am the factfinder. But I have stated my position. I still want to know what the law is with regard to the point I put up. And let's hold back all argument. You have a witness on the stand who I am prepared to say undoubtedly has a terrific burden every single day and I don't see why we need to hold him here longer than actually necessary. So let's hold up argument with regard to these points to a larter time. Let's get the factual material from the witness.

XXX

BY MR. LAND:

Q Following the article from the New York Times, what is the next document in the study?

A The next document is a memorandum from Grace Malone, the Director of the Equal Opportunity Division to Margaret Meyerson, the Director of Operations, attention

Joseph Schiffman, who as I mentioned, was the New York City program manager.

The document says that the Equal Opportunity Division recommends the site for approval and that it will enable site occupants to reside in a socially and racially mixed area. It is signed by the Director of the division. Grace Malone.

The next document is a letter from the then Chairman of the City Planning Commission, Donald Eliott, or a copy of the letter to Dr. Douglas Carroll, Director of the Tri-State Regional Planning Commission, saying that the City Planning Commission approves the project. This is what is known as the A-95 review process where grantees or potential grantees under various federal programs as set forth in the circulating A-95 are required to notify the state and regional planning agencies of the proposed project and are then cleared by the regional planning agencies with the subregional planning agencies. This was part of that process.

The next item is a letter from the State Planning and Development Clearing House again as part of this project. Again, the letter principally urges that there is some reference to the environmental statement required by Section 102(2)(C) of the National Environment

Policy Act of 1969 essentially forwarding the request of the State Department of Environment Conservation to clarify and resolve that issue.

Q One question.

I refer you to the first page of the study. Does it indicate when the study was finally concluded?

A Did he say -- I don't know whether that is an 11, 12 or 13 -- 1972.

Q This particular letter you just referred to, what is the date of that?

A July 31, 1971.

Q In connection with these various documents which you are going to see, is it fair to assume that the study made by HUD was a continuing process which obviously we can see from these dates took over a year to conclude?

A I wouldn't want to testify as to the exact amount of time it took to do it but I know the matter was under review in the area office for a very extended period of time.

Q And a letter such as this asking for further clarification on a particular point was part and parcel -- was the part and parcel of the continuing review process ?

A Yes, basically that is what the A-95 process is

all about, to enable federal agencies before they fund grantees to obtain the views or get the expression of concern of state, regional and local planning agencies.

The next item is the letter from the State Department of Environmental Conservation to Mr. Lapadula in our area office, again inquiring as to whether an environmental statement will be forthcoming.

The next item is a letter to Albert Walsh, the Administrator of HDA from Norman Redlich, The Corporation Counsel of New York City, giving an opinion that the change in Urban Renewal plans which resulted in this being a low income rather than a moderate income project had been legally accomplished by the city.

The next is a memorandum from the area counsel to the Director of the area office concurring in the opinion of the corporation counsel.

The next item is a letter to the Director of the area office from Albert Walsh enclosing various documentation and again dealing with the question of whether this was a major or minor change, providing a list of projects in occupancy and under construction, dealing with a situation in one of the moderate income projects in the West Side Urban Renewal area known as Leader House. Our department had expressed concern that

in some of the moderate income projects that had gone into occupancy in that area it appeared that more than 40 percent of the tenants were low income tenants. This was occurring primarily because of the fact that the city, Human Resources Administration, was willing to pay moderate income rentals for welfare clients. So that as a result in addition to the low income families who would occupy the units under either the rent supplement program or the leasing program, which is specifically designed to provide a portion of the units in middle income housing for low income families, an additional number of families going over 40 percent who were low income were residing in these projects.

Congress had statutorily limited the number of families in 236 housing that could receive rent supplement assistance to 40 percent and our feeling was that this relfected some sort of expression of intent by Congress and was something of a guideline to us even though there was no leagl restriction on welfare tenants and public housing, and also for reasons of sound management of these projects we felt that we didn't want to have too high a percentage of families that might require greater management input. So we asked the city to hold the total number of what we called double subsidy families,

that is, those not only getting the 236 subsidy but also the rent supplement, the leasing subsidy or welfare assistance to 40 percent in the moderate income projects and this is to report that in one project they had already gotten up to 47 percent but that they were now trying in their subsequent renting to accommodate the request we had made.

Q That one project, what was that one project?

A That was Leader House.

The next is a letter -- I am not sure whether this is an independent document or was included as an attachment to the letter of Mr. Walsh to Mr. Maylott, but it is a letter to the City Planning Commission from Deputy Commissioner Olinger of HDA requesting the change in the parcel from partially tax- exempt moderate housing rental to public housing.

The next item is a letter from Donald Eliott, Chairman of the City Planning Commission, to Mr. Olinger stating that the City Planning Commission had held a public hearing and in connection with the proposed project itself and that this in essence constituted a hearing on the plan change.

And that in any event the City Planning Commission had approved it as a minor change.

The next is a list of the sites and the projects that have been accomplished on them under the various state programs and the number of dwelling units. There is a relocation report listing the number of tenants and squatters and former site occupants and various other categories with respect to various sites in the West Side Urban Renewal area. A statement of the city's priorities --

Q I am sorry. Before you get off the chart. Go back to that chart you just had.

There are room rentals indicated next to each of the projects indicated.

A That is the chart before the relocation chart.

Q Right. The rental figures, are they still accurate today, if you know?

A Almost certainly rents have gone up. The one exception to that would be that in public housing where the Brook amendment could have the effect of holding a tenant's rent at where it was at that time if their income had not increased.

The next document is a statement of the city's priorities as to relocatees.

The next document is a letter to me from CONTINUE, the Committee of Neighbors To Insure Normal Urban Environ-

ment, apparently sign by Dr. Jerome L. Fine and stating their arguments against the change and the approval of the low income project.

The next document is a letter apparently to Joseph Schiffman --

Q One question, Mr. Green.

As to Dr. Fine's letter of April 14, 1972, I would like to read you one sentence from page 2 of that letter. It says here "As the accompanying table indicates, the plan will produce about 8,000 units with the probability that 60 percent of these units (4,893) will be rented to low income families."

Do you doubt the accuracy of Dr. Fine's prediction that 60 percent of the 8,000 units will be for low income families?

A Yes, particularly in view of the instruction we had given the city not to have more than 40 percent low income families in the moderate income housing.

Q And continuing with that paragraph, I would like to read another two sentences:

"Even if we were to include the rehabilitated brownstones and the conservation areas (most of the latter group are on Central Park West and therefore fringe the area) the low income percentage for the area remains

above 30 percent. That percentage is equivalent to Central and East Harlem, Bedford-Stuyvesant and Hunts Point."

Do you feel that Dr. Fine was accurate in comparing the mid west side of Manhattan and the West Side Urban Renewal area to Central and East Harlem, Bedford-Stuyvesant and Hunts Point?

A No. The poverty percentages in Central East Harlem, Bedford-Stuyvesant and Hunts Point are clearly much higher than those on the west side.

THE COURT: If you don't mind, before you go on, I presume that as with all cities and city fathers across the land where they have problems of poverty or near poverty or low income that suddenly becomes accelerated because of economic conditions, you are on the lookout that the city or the city fathers when faced with that problem might very well try to accommodate this sudden demand of low income people by putting them wherever they possibly can and thereby in many instances violating the understanding it had with your office.

How do you curtail that? Let me divide it into two parts.

You are aware of that possibility?

A Yes, we are aware of that problem. When it

came to our attention in the West Side Urban Renewal area, we did act to meet it. We have not had similar complaints at this point in other middle income projects. We have been trying to establish that rule as a city-wide standard. There were some projects that had been rented up in various places in the city before our letter to the city on that point -- actually it was a letter from Mr. Maylott to the city, but I was fully a part of that decision -- which have more than 40 percent low income families in these moderate income projects. Some of them have been very serious management problems.

We also recognize that there may be a possibility that as projects rent up in some lower income neighborhoods they simply cannot attract middle income tenants and are faced with a choice between a bankrupt project and using a higher percentage of tenants. I think we would accede to a request for a higher percentage of tenants. But it is something we are trying to track. Once the city violates it it is difficult for us to do anything because you have a family in residence and we have not insisted the city force the families to move.

THE COURT: Thank you.

Q As to the Leader House situation, what is your understanding of the means by which the city will

reduce the approximate 47 percent welfare -- not welfare-- low income tenants in Leade House to an acceptable level?

A My understanding is as vacancies occur they are trying to rent to moderate income families so as to bring the percentage of low income families down to 40 percent.

Q In other words, there will be no eviction of residents?

A My understanding is that the city is not trying to force any family out of there. We have not instructed them to.

Q Based upon your experience in the housing field, how long a period do you think this process of natural attrition will take?

A It is really very hard to say. I would think the turnover would likely be low since it is a fairly attractice neighborhood and I would think a low income family like other families would like to stay there if they could.

On the other hand, low income families do have to tend to move somewhat more frequently. Generally I couldn't give you any worthwhile estimate as to how fast it will occur.

Q Several years at least?

A Yes.

Q Let me ask you this question.

How long will it take to construct -- assuming that Site 30 can be constructed as a low income housing project, how long will it take to construct that building?

A I would assume somewhere from a year and a half to two years.

Q Thank you. Okay.

THE COURT: Suppose we take a short break. Announce a recess.

THE CLERK: The Court will take a short recess. All rise, please.

end t 1b

BY MR. LAND:

Q Mr. Green, to finish up that last thought we had as to the nature of tenancy of certain buildings, in the event that Site 30 would be developed as a middle income --

THE COURT: I beg your pardon. Would you concentrate on Site 30 after he is through with the doucment? I would like to have that well developed and right now I would like to get through with the exhibit.

MR. LAND: Yes.

THE WITNESS: The next item in the exhibit is a letter from CONTINUE to Mr. Schiffman, the New York City program manager in the area office, again setting forth their case opposing the use of the site for low income housing and including a table on various sites and how they project the future development of them, again including that chart from the New York Times which apparently was an attachment to the letter.

Q CONTINUE itself included the welfare chart referred to just a few moments ago?

A Yes, that's correct.

Q And they relied upon that for their presentation --

THE COURT: The letter speaks for itself. He

doesn't have to pick that up.

What I want him to emphasize and what he has been doing is explaining documents which at first blush I might have a little difficulty with.

All right.

THE WITNESS: Next there is a letter to me from CONTINUE essentially wanting to make sure as of June 6, 1972, that the issues on this case had not been prejudiced. And the next item is a letter from CONTINUE to Mr. Maylott relating to some statements that had been made at the most recent meeting of the Strycker's Bay neighborhood counsel which favored the conversion to low income.

And a letter the same date to Albert Walsh, the Administrator of HDA, again setting forth the CONTINUE position.

A letter of June 5 to Mayor Lindsay from CONTINUE again setting forth their opinion.

The next document is a memorandum on behalf of the plaintiff in this case, Trinity School, prepared by Demov, Morris, Levin & Shein, setting forth their position in the matter.

The next item is a transmittal letter from James William Gaynor transmitting a report to the Trinity

Housing Company and the Trinity Episcopal School Corporation of the West Side Urban Renewal project, and that study is also included in here.

MR. LAND: For the record, that is the same study we referred to when Mr. Gaynor testified.

THE COURT: Precisely.

THE WITNESS: The next item is a letter from the area director of another HUD office, the area office in Baltimore, to the Commissioner of the Department of Housing and Community Developmenet of Baltimore analyzing a problem there under the project selection criteria.

Q What is the relevance of that letter?

A My recollection, and it's frankly a vague recollection, is that this may have been a document that was circulated by the Department to area offices as an illustration of the kinds of things that ought to be considered.

In the same vain, there is a memorandum to regional and area counsel from our then general counsel outlining the analysis to be given under the project selection criteria and a memorandum from Secretary Romney to the regional administrator and area office directors emphasizing that the project selection criteria did not make it impossible to build HUD assisted housing

in areas of minority concentration. There was some popular misconception at the time that that was the case.

Q You used the words minority concentration. What do you mean by that?

A An area that is substantially all minority is what he was referring to. As I mentioned earlier in describing the project selection criteria, it is possible to put assisted housing there so long as there are housing opportunities for people in the same income range in areas not of minority concentration in that housing market area.

Q The last item is very badly reproduced by it seems to be a breakdown of population by age, apparently on census tracts. Again the copy is so bad it is difficult for me to read.

THE COURT: Very well.

Q Mr. Green, in your judgment, do the departmental studies and statistics and explanations contain facts which you believe to be accurate and does such data provide the necessary information to determine whether Site 30 as a low income housing project will or will not cause tipping in the area?

A In my opinion, the material that the department

itself prepared as opposed to a couple of those statements that are included that you read to me earlier, the material the department prepared is reasonably accurate. There are some obvious calculation errors in some of the material. I think the material is reasonabyly accurate and on the basis of that material and my own general knowledge of the area, it's my opinion that this project will not tip the area.

Q Could you tell us the salient reasons why tipping will not occur?

THE COURT: Yes. I wish you would expand on that. That is one of the biggest things we have got here. It is critical.

A Basically, the population of the area, and I would include as the general neighborhood the west side area from Central Park over to the river, Hudson River, and basically from 110th Street I think would very clearly be the topmost you would go. I think there is some question whether you would cut off at 79th or 75th Street, describing the bottom of the neighborhood.

Basically the population data appears to show that that area is over 70 percent minority and that that percentage seems to have held over a period of time, and that's greater than the non-minority population of

the city as a whole. I think the Urban Renewal program has been successful in taking a lot of the buildings on the side streets that had been operated as rooming houses and single room occupancy type structures and converting them into very attractive structures which are occupied by middle and upper middle class people. I think the neighborhood is located where it's got as good mass transit as you will find anywhere in the city or perhaps anywhere in the world with the two west side subway lines. I think, as I mentioned before, the propinquity to the Lincoln Center development, Carnegie Hall and the theatrical district is a very great plus for the area because the area has a reputation as a place to live for people who are successful in the world of arts and letters. So that that's something that is holding the population there in general, the public facilities are what I mentioned before. Shopping is good. It is perceived to most people as an attractive neighborhood in which to live. I think also there has been development moving north from the Lincoln Center Urban Renewal project. Most of that up to now has been concentrated south of 72nd Street, but that development now is starting to move north.

For example, there was recently an announce-

ment by a building of an intention to put a non-subsidized apartment building on 96th Street on the west side. Obviously that is a judgment by that person that he can rent apartments at a quite high rental in that neighborhood. So I think it represents some judgment by the real estate industry that the neighborhood is one which can demand high rents.

All of those factors lead me to feel that the neighborhood is not going to tip.

Again, this project involves 160 families. We are talking about an area with over 200,000 population. So the number are very small. As I recollect, 32 of the units are set aside for the elderly and by and large the experience of the Housing Authority is that the elderly units tend to be overwhelmingly non-minority in neighborhoods that are not all minority neighborhoods.

THE COURT: For an area within the total area of redevelopment, a certain area might actually be on the verge or actually is ready to tip, that is possible, is it not?

THE WITNESS: Yes, that is possible. Again, I think the factors here which pervade the whole west side area pervade this area too, so I cannot feel that is happening here.

THE COURT: But you would be concerned if there was brought to your attention and you found upon inquiry that there was substance to it that an area -- that a segment within the total area is about to tip?

THE WITNESS: Yes.

THE COURT: What would you do?

THE WITNESS: There are limits on HUD's power because we in essence are responsive to local plans and local development. We don't build anything ourselves. One response is the kind of response we gave when we saw more than 40 percent of the units in these middle or moderate income projects going to low income families. We do try to get our grantees to maintain a range of incomes within projects so we would bring pressure on the grantees to the extent we could try to enforce those rules in projects that were federally assisted.

THE COURT: Fine. Thank you.

Q Mr. Green, you mentioned --

THE WITNESS: May I amplify that? We have had one situation in Albany where an Urban Renewal area was turning very heavily minority after starting out -- it started out over 50 percent minority and got up as high as 80 percent. Basically we asked the Housing Authority to try to hold vacancies and seek eligible

non-minority families. They got in touch with the county welfare department which had only been sending residents of the city of Albany to the Housing Authority and explained to them that the people from the area who were non-minority were also welcome.

We met with the may on steps that could be taken. The redevelopment agency sponsored a supplement in the local Sunday paper advertising the areas as an attractive place for all families. So that kind of effort has been undertaken by the department when we have run into that kind of problem.

Q Mr. Green, if Site 30 were developed as a middle income housing project, would there be any low income families tenant that middle income project?

A We have to define low, middle. In the jargon we refer to middle to refer to projects generally developed in the state Mitchell-Lama program without any subsidy for the tenants other than the tax abatement and the low income rate that those programs produce. We would refer to projects under 236 as a moderate income project because it would tend to have lower rents and a lower income tenancy under the rules that relate to that kind of project.

Finally, we refer to public housing and low

income housing.

Now, the federal -- in the past federal programs have tended to put the low income units into the moderate income federal projects. There has been a tendency to have a certain percentage of rent supplement or leasing money allocated for that purpose. It is also possible under the department's 236 program for the department to provide funds to the Housing Authority to lease units in a middle income project or even theoretically an upper income project for low income families. Again, the state through its capital grant program has at time provided funds to have lower income families in their Mitchell-Lama projects.

Q So that based upon your knowledge it would be hardly likely that Site 30 will develop as other than a public housing project and that low income people would reside there?

A Certainly if it had been developed under the 236 program it is likely that there would have been rent supplements or public housing leasing used by the city in order to have a percentage of the tenants with low income tenants.

Q Approximately what percentage would be low income tenants in such projects?

A We try to hold a limit of 40 percent.

Q In other words, the construction of Site 30 as a low income housing project with 160 units, does that represent a net increase of 160 units of low income housing?

A In all probability not. I should make one other point clear, and that is that the income limits for public housing, initial occupancy of public housing, are not coincident with general definition of poverty levels of income.

For example, my recollection is that the income limit for initial occupancy of public housing for a family of three or four is $9,000 a year, which is somewhat above what would be considered poverty level, I think, by most people. So I don't want there to be any misunderstanding as to that.

Q Could you give us a little more analysis of the definition of low income in terms of sliding scale of income?

A Again, there are different programs which are different definitions. Basically in the public housing program it's keyed to a level of income where the rent you can pay is 20 percent below the going rent in the municipality. Again given the very popular situation in

New York City with rent control, it's a rather hard analysis to do, but our economists do do it and they have come up with the numbers that I have given you.

The 236 program, the highest that we can go in terms of incomes for initial occupancy is 135 percent of the public housing income limits. At the present time because our area office had authority to raise the public housing income limits, we have to go to Washington to get the corresponding increase in the 236 limits. The gap between the two limits is narrower. We have a proposal in Washington to increase the 236 limits also.

Then within the 236 program a percentage of the units can have a somewhat higher set of income limits known as the exception income limits. Nationally that is limited to 20 percent of all units in the project by statute. Other programs have different poverty levels. Obviously welfare has its standard, food stamps there are a whole variety of programs which would establish different standards. The public housing and housing built under the state and city programs also are governed by income limitations contained in the state public housing law and the state private housing finance law. So those would aoso be a factor. They are basically based on multiples of rent that the family will pay.

Q Given the broad definition of low income, then, it is any person who fits within any of the categories of the various programs.

Assume that the construction of Site 30 as a low income housing project would cause in excess of 2500 units of low income housing for the West Side Urban Renewal area and also assume that the construction of Site 30 as a low income housing project would cause in excess of 30 percent of the units in the area being low income.

Would that cause tipping in the area?

A In my opinion, the number of units involved here is so small, that in relation to the neighborhood as a whole it would not particular since, as I mentioned, some of the units are reserved for the elderly and past experience of the Housing Authority in neighborhoods other than all minority neighborhoods has been that the percentage of non-minority tenants in the elderly units runs very high.

Q Is it reasonable to associate any increase in low income families with an increase in problem families?

A No. I think again it's hard to have any fair indicator of what I used in trying to think through these problems myself in various types of situations. As to

the number of single adult headed families with children on welfare. Again there are plenty of such families that are stable and plenty of families that are not stable and do not meet that criterion, but as a rule of thumb and for lack of any specific identification of who is a problem family and who isn't, that is the rule of thumb I have tended to use in evaluating this kind of situation.

Q The other study prepared by the Department of Housing and Urban Development was a negative impact statement, a copy of which you have and is marked as Defendants' Exhibit E.

Are you familiar with the contents of that document, Exhibit E?

A Again, I have read it and I am generally aware of its contents.

Q Could you tell us the relationship between the project selection criteria, Exhibit B, and the negative impact statement prepared pursuant to the National Environmental Policy Act, Exhibit E?

A They are closely related. You will remember, for example, as we went through the project selection criteria there were such issues as relationship of proposed project to physical environment and relationship

to orderly growth and development, both of which very clearly relate to environmental issues.

I would say that if you want to compare the two that the environmental clearance process tends to come to rest more heavily on what might be described as ecological issues as opposed to the social issues which are probably stressed most in doing the project selection criteria. There is a great deal of overlap between the two and the clearance in this case did include a good deal of social data in environmental clearance.

Q Were both these documents prepared at or around the same time?

A The date of the environmental clearance is January 26, 1972. The date of the covering memorandum when the project selection critera is apparently December 11, 12 or 13, 1972.

Q I understand you are the regional director --

A Regional administrator.

Q -- of HUD. In the organization of HUD what is John Maylott's position in respect to your position?

A He reported to me.

Q Directly to you?

A That's right.

Q I understand he was the area director?

A That's correct.

Q Is you region broken down into areas?

A Yes. We have in New York State the Buffalo area office, the New York area office and the Albany insuring office. The New York area office handles all HUD programs up to the mid Hudson and, in addition, handles the non-FHA mortgage insurance programs through the center of the state, a line running between Syracuse and Buffalo and Rochester. From that mid-Hudson pcint to the center of the state the FHA insurance office in Albany handles the FHA mortgage insurance program. Then our Buffalo area office handles the entire western part of the state.

Again, there is a Newark area office handling northern New Jersey, a Camden area office handling southern New Jersey and the Commonwealth area office in San Juan handling Puerto Rico, Virgin Island and Canal Design.

Q Did you have time when these studies were prepared to study them with Mr. Maylott?

A Our discussion focused on the general problem in the West Side Urban Renewal a[illegible] and the issues being raised by the groups on each side of the issue rather than my getting involved in the day to day development of the material in these packages. But it did certainly involve

an ongoing discussion of the tipping issue.

Q The day to day preparation of documents was a function of Mr. Maylott and the function of his staff, is that right?

A The function of the area office, that's right.

Q Did you approve the conclusion reached by the area office in these two studies?

A Yes. Mr.Maylott told me what conclusion he had reached. We discussed the various types of analyses he conducted and in essence I told him I was not going to overrule the decision he had made and I approved it.

Basically he had authority and it would have meant by pulling back authority to the regional office to reverse him on it. Normally this is something that should have been done at the area office level but if I had felt they were going off base it was my responsibility to get them back on.

Q In other projects financed by HUD, has the tipping issue come up?

A Yes.

Q And could you tell us the approximate number of such projects in which the tipping issue has come up?

A Well, let me -- before I gave you a number let

me explain it this way: Obviously a standard complaint by those who are opposed to the location of a public housing project in their neighborhood is that it will tip the neighborhood and turn it into an all minority neighborhood, and that is the kind of issue we have had to deal with and evaluate in anywhere from 10 to 15 cases that have come to my attention.

MR. LAND: I have no further questions.

THE COURT: I complement you on a very helpful direct examination. You came right to your point and you thought it through.

Now in the regular order we turn first to the city.

MR. LAND: One point. This is Mr. Stephen Love, your Honor, sitting here at counsel table. He is an attorney with the Department of Housing and Urban Development.

THE COURT: Is he going to make a contribution or is he just a spectator?

MR. LOVE: A spectator, I think.

THE COURT: What does the city say?

MR. LINER: No questions.

MR. DOUW: I don't believe I have any questions. May I have a moment to confer with Mr. Land?

THE COURT: Of course. Certainly.

(Pause)

THE COURT: Has something occurred to you, Mr. Douw?

MR. DOUW: I have no questions.

THE COURT: Mr. Morris, it is all yours. Cross-examine.

CROSS-EXAMINATION

BY MR. MORRIS:

Q Mr. Green, where do you reside?

A At 755 Park Avenue in Manhattan.

Q That's on the east side of Manhattan?

A That's right.

Q How long have you lived there?

A Since 1969.

Q And where did you live before that?

A 196 East 75th Street.

Q Have you lived on the west side of Manhattan at any time?

A Yes, from age zero to 23. My legal residence was on the west side of Manhattan.

Q But since the age of 23 you haven't lived on the west side at all?

A That's correct.

Q When did you last visit the area?

A It is so infrequently it is a little hard for me to say.

THE COURT: Approximately. A week ago, two weeks ago, a month ago?

THE WITNESS: I believe I drove through there within two weeks.

Q How often do you visit the area of the West Side Urban Renewal project itself?

A I would say not frequently.

Q Not frequently. Would you say that the success of the area -- I am speaking now of the West Side Urban Renewal area itself -- would depend in large measure upon performance by the city and the various entities involved of the Urban Renewal plan in accordance with its terms?

A What is it that depends on?

Q The success of the project.

A Obviously the success of the project in terms of doing what the city contracted to do depends or that. On the other hand, I could see things the city could change in that project which would not materially change the success if you are talking about the social success of what's being done.

THE COURT: You are anticipating the next question.

THE WITNESS: Yes, your Honor.

THE COURT: Stick to the question he put to you.

Would you be good enough, Mr. Court Reporter, to put that question.

(Question read)

A I have to respond no, there are things that could be done not in accordance with the Urban Renewal plan which would still leave the area a successful one in terms of its social characteristics.

THE COURT: That is another way of saying what you did say. All right. Next question.

Q In your opinion, are the terms of the Urban Renewal plan being performed at the present time?

A It's been some time since I read through the whole Urban Renewal plan so I will not be in a position to tell you whether there are violations of some of the fine print in the Urban Renewal plan.

Q In other words, you don't know at this point?

A I have no personal knowledge of that.

Q Do you know how many units of low income housing were planned for the area?

A I don't off the top of my head know the number proposed by the city. I know it has been increased since the initial proposal made by the city.

Q I am not talking about the initial proposals. I am talking about the Urban Renewal plan as it was being carried forward in the late 1960s.

A I could add it up from the material in this file, if you want.

Q My question is do you know how many units of low income housing were planned for this project during the period around 1967, '68 and so forth?

A No.

Q You don't know. Do you know how many units of low income housing are in the area now?

A That material is in here and I could add it up now.

Q Do you know it?

A Without adding it up, no.

THE COURT: Would you say to him assume such and such.

MR. MORRIS: I will in a moment.

THE WITNESS: In this documentation there is a chart which does add up the number of units being produced with government assistance and it does show that

the rent range of $11 to $25 per room per month which we would have considered low income there are 1725. It shows 170 in the rent range between 26 and 45, and 830 in the 46 to 65 range, and then 66 plus, 195.

Q How many units of low income housing will there be in the area if the unfinished projects are completed? Do you know that?

A Again, I have to go through the material to get it.

Q Do you know it?

A Off the top of my head, no.

Q Suppose I were to tell you that the number of low income units contemplated by the plan in 1967, '68 and '69 were agreed upon by the various governing officials from the city to be 2500 units.

Do you recall that number at all?

A Yes, I do.

Q You do recall that was the number?

A I recall that number being used in various papers here.

Q Right.

A I know that number appears in many of the documents here.

Q Right. Now, do you know or assume that when

the project is completed in accordance with the planning which is presently in existence and if you include all of the units of low income housing in the area at the present time and on the perimeter of the area, which includes de Hostos House, 830 Amsterdam Avenue and Douglass Addition, and if you include the welfare families in the project plus the number of families in the 30 percent low income section of the middle income projects, plus the additional low income families in other parts of the project, that the number of low income families would exceed 3500 to 4000 units.

Based on that assumption, would you say that the area would then pass the tipping point?

A No, in my opinion.

Q In other words, you feel that even if they exceed by more than 1000 the number of units planned for low income housing you feel this area will still not exceed the tipping point, is that what you are telling us?

A You are talking now about the area that is not only the Urban Renewal project by also some surrounding area where some of these are located?

Q No, I am talking about the Urban Renewal area itself plus three public housing projects on the immediate

perimeter of the project. And would you say that to exceed the original contemplated estimate of 2500 units by over 1000, whether that would endanger the project as passing the tipping point.

A Again, I am not sure that that number 2500 you are asking me to assume includes outside the project area.

Q Yes, I am asking you to assume it does.

A My opinion is no, but we have not done the review on other projects such as Site 4, so that I am not speaking from the same base of knowledge of which I can speak about Site 30 where the department has gone through the complete review process.

Q Mr. Green, would you cite for us the regulations governing the project selection criteria in the federal register?

A I don't know the federal register citation. I believe they were published, though, in February, 1972, I believe on Fhbruary 7th.

Q February of 1972?

A That is the final form of those, to my best recollection.

end t2

Q Were these project selection criteria regulations contoversial when they were first promulgated?

A Yes.

Q And isn't it true that the project selection criteria regulations are no longer in effect?

A The new handbook that has come out related to the SEction 23 program does not keep all of the project selection criteria but it does include in the handbook the equivalent of project criteria selection Number 2, I think, in almost exactly the same words.

Q But the rest of the project selection criteria are no longer required. They would be required for the cases being built under the 236 program. For example, we allocated some 236 funds to the City and to the various State agencies back on November 1st. Those projects continue to be subject in their review to the project selection criteria, but the new handbook governing funds that are now being made available under the Section 23 new construction leasing program, that handbook does not continue the project selection criteria for those projects although it does have in the handbook that a project be evaluated in language that is almost identical if not identical to project selection criteria No. 2.

Q So if you were to prepare material with respect

to Site 30 today, you would not prepare the site selection -- the project selection criteria study that you did back in 1972?

A Not in that form, but we would have to prepare the material that relates to project selection criteria No. 2, which is the location in terms of impact on the percentage minority population.

Q But you would still not have to prepare that schedule or that report which you went through in great detail for the Court?

A On the other items. Let me respond this way. Many of the items, as we pointed out, are picked up in other parts of our processing. The environmental review which we are required to do under Section 23 picks up many of the issues which are covered in the project selection criteria. There are still equal opportunity requirements, equal opportunity processing that have to be done with respect to applications under Section 23, but it would not be done in this format that we went through this morning, no.

THE COURT: But substantially the material would be as thoroughly, as the one you discussed?

THE WITNESS: Certainly to project selection criteria 2, yes, and certainly as to environmental matters.

Q Is the project selection criteria required

where Section 236 subsidy is furnished only, where it is piggy-backed on top of Mitchell-Lama, but not basically financed by the Federal Government?

A Yes, but in the cases of the funds that have been set aside for the State Mitchell-Lama program and the City Mitchell-Lama program the State or the City does the processing of all except project selection criteria 2. We still do the processing on criteria selection 2 even if they are State or City-financed and getting only 236 and not FHA mortgage insurance.

Q Are you familiar with the setup of the number of units of public housing being contemplated on the 91st Street in the West Side Urban Renewal area?

A If you give me a site number, I can get that out.

Q On 91st Street we have Site 29. That is Stephen Wise Houses, is that correct?

A Site 29 is a State public housing project completed in January, '65. It has got 399 units.

Q Right. Exactly. Would you look at Site 25 which is also on 91st Street and tell me how many units of public housing are located there?

MR. LAND: I think the witness would be helped if he had a map.

THE COURT: Surely.

(Document handed to witness.)

A The chart shows that 168 units of Federally-subsidized public housing were completed there in September, 1965.

Q Looking at the map, would you look at Site 30 and tell me whether Site 30 is not right between those two public housing projects?

A The number of the first one was Site --

Q 29. That is immediately adjacent to Site 30, isn't it, on 91st Street?

A Yes, 29 is immediately adjacent.

Q To Site 30?

A Right.

Q And Site 25, which is Federal public housing is immediately or diagonally across the street from Site 30, isn't it?

A It is diagonally across the street.

Q So that if you make Site 30 public housing, as your office approved that it should be, you are creating a concentration of public housing of over 400 units -- of just under 400 units immediately to the west of Site 30 and 167 units immediately or diagonally across the street fromSite 30?

A Yes, it is diagonally.

Q Diagonally across the street?

A Across Columbus Avenue and on the other side of the street.

Q The same street?

A The north side of the street.

Q The north side of 91st Street.

Wouldn't you say, therefore, that was an over-concentration of public housing in one particular area of the West Side urban renewal project?

A No, I don't believe so, because of the other housing that is also immediately adjacent to the sites we have discussed.

THE COURT: Thank you. That happens to be a very important point.

Will you enlarge on it, if you can. Let the record reflect what you are talking about when you say "other" and so forth. I want that to be as accurate as possible.

A Site 31, which is the one that is directly across from the Site 30, directly across Columbus Avenue. is a City limited profit project of which 20 of the units are for -- are in the rent range or were in the rent range of 11 to $25 per room per month, but 159 units are in the rent range $46 to $65 per room per month, according to this

chart, which would make them really middle income.

Of course, the plaintiff's school is across the street and there is also on Site 24, which is again across the street from 29 and 30 on the north side of the street, you have what is described here as a City-limited profit project of 199 units.

Q Which one are you talking about?

A Site 24.

Q That is the Trinity site?

A Right. Again this chart shows, although it is a little fuzzy and I can't see the exact number, that is, the predominance of the units are in the $46 to $65 range, which again is middle, not even moderate, but middle income.

Q At that point, wouldn't you say, therefore, that Site 24, the Trinity site, is really -- if Site 30 is converted to public housing, surrounded by public housing?

A Again, you thought that having 25 -- no, because you have got Site 20 on the next north block.

Q That is Leader House which you complained about in your report.

THE COURT: He is beginning to give me an answer and then I lose it. Just hold those additional questions.

Will you first finish the question that you were answering. You get through with it.

THE WITNESS: Could the stenographer read it?

THE COURT: You remember, Mr.Administrator, the point Mr. Morris is making is that there is a concentration of low income structures one right next to the other. He gave you 30 -- give me those numbers again.

MR.MORRIS: 29, 25 and Leader House, which is 20.

THE COURT: He has called that to your attention and your answer was no, it wouldnot tend to tipping, and you were going from one structure to another when suddenly you were diverted. I would like you to complete that.

THE WITNESS: Again, if you are talking about theTrinity location, the location immediately north of that is Leader House where although we were concerned that the percentage of low income families had gone over 40 per cent, we did stop it before it reached the 50 per cent level and assuming -- we have no reason not to -- that the City complies with our directive that should over a period of years drop back to 40 per cent low and therefore 60 per cent moderate, and even at the present time what we have been told by the City is over half of the units are moderate income.

Again, Site 31 is diagonally across from the Trinity School and that is listed here as a City-limited

profit unit with 20 of the units in the $11 to $25 per room per month or low income rental range, but 159 of the units in the 46 to 65 range, which again is middle income, above the moderate income level.

Then , of course, there is the area west of the Trinity School also. So that I don't think it is fair to say that it is completely hemmed in by public housing.

THE COURT: All right.

Q Isn't Site 21 diagonally across from the Trinity School and isn't that Columbus Manor which is also one of those you testified previously had an excess of 40 per cent of low income families?

A I didn't testify to that, but Site 21 has a City-limited profit project. This chart does show that there are welfare families there executing low income tenancy in addition to those living in units that are scheduled for low income occupancy, yes.

Again, it appears that about a 50-50 ratio has been struck there in terms of the occupancy.

Q With respect to categories 2 and 3 of the project selection criteria study, if the tipping point is exceeded, would a poor rating have to be given under items 2 and 3?

A Under Item 2, if it were our determination that project would substantially increase the percentage of minorities in a neighborhood like this, we would have to give a poor rating and could not approve the project.

I think for different reasons you reach a similar conclusion under 3.

Q Yes. In other words, if the tipping point is in fact exceeded by what has occurred in this area, then this project would not have been approved by the Federal Government?

A That's right, if in our judgment would significantly increase the concentration of minority families in this area which we rate as a mixed area.

Q With respect to Item 5 in the project selection criteria study, if the Urban Renewal plan is violated and is not carried through in accordance with the terms of the Urban Renewal plan, would this affect the superior rating given in your report?

A I think that would depend on the nature of the violation.

Q Assume the violation was of a sort which would lead to exceeding the tipping point so that the area would be endangered as far as integration is concerned.

A I would think Item 5 refers to physical

environment. That sort of social issue would be dealt with under two rather than 5. 3 doesn't deal with the racial issues so much as the question of concentration.

Q If the opinion of the Corporation Counsel is wrong that the plan change is legal -- you remember the Corporation Counsel filed a letter saying that the change in the plan was legally approved -- would that change the approval of the project by the Federal Government?

A Yes. If that plan change had not been approved, then the site would have been designated for assisted housing rather than public housing and we could not have approved public housing on the site.

Q In other words, if instead the change being a minor change as characterized by the City Planning Commission it is in fact a major change, you would not have been able to approve the project?

A No, I am not sure that that is true, because the City's contention is that in fact public hearings were held relating to this issue, and as would be required in the case of a major change. So that it might well be that if in fact these public hearings took place, as I understand they did, that the procedures were followed by the City which would be sufficient to meet the requirements for approving a major change and we might therefore -- our

approval might therefore have been proper even though the thing was misdesignated a minor change.

Q Let's assume, carrying your comment through one step further, let's assume the public hearing which was held by the City agencies, the City Planning Commission and theBoard of EStimate, were public hearings which addressed themselves solely to the approval of the application by the Housing Authority for a low income project and did not address itself at all to the question of the change in the Urban Renewal plan. Would that change your view as to that?

MR. LAND: Your Honor, I don't believe that one of the issues presented by plaintiff in this lawsuit is that the change by the City was in any manner illegal. As a matter of fact, plaint iffs introduced documents establishing the legality of the change, as I recall.

MR. MORRIS: Your Honor, that is not true. One of our arguments is that the approval by the City of Site 30 for public housing did not constitute the approval of a major changein the urban renewal plan in accordance with the requirements of the urban renewal plan itself, and no such approval was ever obtained.

THE COURT: Either way I would allow the question.

THE WITNESS: Could it be read to me?

THE COURT: Certainly.

Read it, Mr. Court Reporter.

(Question read.)

THE WITNESS: Frankly, your Honor, I would ask my regional counsel. That would be a legal question as to whether that hearing was sufficient under our statute and regulations. I frankly, without legal research, would not have an opinion on that.

Q In other words, you don't know at this time and it is conceivable that if the nature of the public hearing held did not deal with a major change in the urban renewal plan, that might constitute a defect in connection with the application made to you?

A If this were a major change and if that were the law, then it would be a defect.

Q Then it would be a defect. And the rating given to the project would be changed?

A I am not sure that the rating would be changed. It is just we would not legally be able to approve public housing on an urban renewal site where the site was designated for non-public housing.

Q In other words, you wouldn't approve the project.

THE COURT: Mr. Morris, would you be good enough just to rest a bit. I want to talk to some lawyers

who are here. It won't take me long. I don't like to keep them waiting. They have all arrived now. I might as well see them.

Please keep your seat. This should not take long.

Come on in.

(Recess.)

THE COURT: Let's go ahead.

BY MR. MORRIS:

Q Mr.Green, when you testified with respect to Leader House, indicating that it appears the number of low income units exceeded 40 per cent, did you know that at the same time the same situation prevails with respect to Columbus Manor and Westwood House?

A The chart does indicate that, yes.

Q So that when you evaluated the project your correspondence indicated that only Leader House was considered you testified.

Now, if you include in addition to Leader House Columbus Manor and Westwood House, wouldn't that tend to change the conclusion that you arrived at in preparing the project selection criteria?

A First let me make it clear that it was an area office that did prepare and did the evaluation rather than I.

Q Yes.

A And this chart that I am reading from is in the documentation covering -- that was included as part of the package in the project selection criterion evaluation and it specifically states that there are welfare families in the three projects that we have discussed.

Q Now let us take a look --

THE COURT: So the answer is you would not change your conclusion?

THE WITNESS: So the area office had this data in front of it when it made this decision and therefore I feel they would not have changed their decision.

Q Let us look at the 236 income limits at the time Leader House, Columbus Manor and Westwood House were completed.

Can you tell us how those income limits compare with the income limits of public housing today?

A Quite similar. If we have increased the public housing income limits since that time.

Q So that there is very little difference between the two?

A That is assuming we don't get any change from Washington in the 236 income limits as we have requested.

THE COURT: Which you already mentioned?

THE WITNESS: Yes.

Q Now, this project that you testified to on 96th Street and Broadway, how do you know about that project?

A Simply from reading it in the real estate section of the New York Times.

Q In other words, you read the same article I did in the real estate article of the New York Times last Sunday, is that right?

A Yes.

Q And that is the sole basis for your knowledge as to that?

A As to that particular development, yes.

Q And you made no further investigation and you know nothing more about the facts with respect to that?

A That's correct.

MR. MORRIS: I respectfully request that his testimony with respect to that be stricken from the record.

THE COURT: I shouldn't think you would want it stricken for your purposes, but if you want it stricken I will strike it.

MR. MORRIS: I do want it stricken.

THE COURT: Stricken.

Q Wouldn't you state that multi-problem families are more likely to be found in low income -- among low income

families than in moderate or middle income families?

A Yes.

Q Did you know that the project in question, that is, theSite 30 project, was controversial before the Federal decision was made to commit funds?

A Yes.

Q And what were the substantive issues raised in that controversy?

A I would say there were several. One was the tipping question; second, what impact change in Site 30 would have on the real estate values of those who had invested in the neighborhood, including your client. I would say those were the two issues that were mostly raised with us.

Q And were you made aware of those controversial issues at the time the final determination was made to approve Site 30?

A Yes, and long before then.

Q Is there any answer in the records to the request of the State Department of Environmental Conservation to have an environmental impact statement?

A Not in the material I have here.

Q So that there was none?

A I can't say that, but not in either the project

selection criterion package or in the environmental package.

Q Does the project selection criteria study, that is, Exhibit B that you were reading from, give consideration to alternative sites, that is, sites alternative to Site 30, for this low income housing?

A I think that would more than likely show up in the environmental.

THE COURT: Take your time.

Q You haven't testified to any consideration of alternatives.

THE COURT: For the record, that is Exhibit --

MR. MORRIS: Exhibit B. The site selection criteria study is Exhibit B and the environmental study is Exhibit E.

MR. LAND: For convenience, Item J of the Housing Authority.

THE COURT: He just got it.

A Item J in the submission from the Housing Authority does discuss that and rejects the other sites.

Q Would you tell us what it says?

A "The Authority feels that there are no alternatives to the proposed West Side Urban Renewal area. The universally recognized scarcity of available vacant land in the Borough of Manhattan and in the City of New York

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generally mandatesthat areas such as the one proposed be revitalized and infused with new housing and ancillary facilities. To shun such areas in favor of developing only outlying sites would be to regulate inhabitants of these areas to the worst possible housing and environmental conditions with all the evils concomitant to such an existence.

"In this connection it may be noted that there are presently approximately 135,000 families eligible for public housing who are now on the Authority's waiting lists and many more thousands who urgently require better housing, but are not on waiting lists. This development will admittedly better the lives of but a small segment of those who so desperately need new housing but when combined with other like developments a meaningful contribution can and will be made.

"It is imperative that sites such as proposed be permitted to develop to be developed to provide the needed relocation resources to advance the City's redevelopment plan."

That was the Housing Authority submission.

Q In fact, were any alternative sit s actually considered?

A The HUD work sheet commenting on the Housing Authority statement simply says:

"The draft environmental clearance work sheet does not address itself to any alternate uses of the site. Development of the site with housing is in accordance with the Federally-approved urb an renewal plan. The nature of the economic market to be served by the housing does not constitute a clear environmental consideration, and does not appear to have any environmental impacts which are significant and adverse. The designation of the site for low-rent public housing by the City Planning Commission and the Board of Estimate constitutes the City's official development strategy, in accordance with documents of record, such as the urban renewal plan."

So basically the area office decided this has been designated in the urban renewal plan and they did not analyze any alternate reuse of the site.

THE COURT: So the answer is no?

THE WITNESS: Right.

Q What does the word "threshold" mean when it is used in the HUD environmental regulation?

A Basically I recollect that is the point at which you have to take another step. In other words, if a project is of a certain size, then it has got to have an

environmental review. If certain things cause a project to reach a threshold, then you would have to do a more detailed review and so on.

Q But in this case the review that was done was merely the conclusion of a negative impact statement, is that right?

A Actually -- there was a so-called special environmental clearance.

Q But there was a negative impact statement, isn't that so?

A There was a conclusion it would not have adverse environmental impact.

Q And therefore no environmental study was made?

A That is not correct. No environmental impact statement following the procedures of the council on environmental quality for environmental impact statements was made in this case because the area office determined that the case did not have such serious environmental problems as would require such a full environmental impact statement.

But a review was made of the project in order to make that determination and that was the environmental impact review.

Q And it came to a negative conclusion, is that right?

A That's right, that no environmental impact statem ent was required in this case.

Q Would you define for us the term "urban blight"?

A I suppose it has a number of meanings, depending on your perspective. I think the phrase has generally been used to refer to the kind of situation that develops in older deteriorating neighborhoods where the use made of a site in an urban setting or the qualityof the structures on the site has a negative effect in terms of the economics of surrounding locations.

Q Isn't the term "urban blight" used in the HUD regulations relating to environmental impact situations?

A I don't have those in front of me.

Q Don't you know?

A No, I don't know.

Q You don't know whether it is there?

A That's right.

Q What about "urban decay"?

A Again, without the regulations in front of me I will not tell you any particular thing is a quotation from the regulations.

Q What do you mean by urban decay?

A It would be very similar to the urban blight I described.

Q Is it exactly the same?

A Again, I think that would depend upon the context in which you were using it.

Q I am talking about a context in the regulation.

A Again if I could look at the regulation, I can tell you that.

Q Suppose I show them to you.

THE COURT: So now the administrator is going to examine what the regulation has to say with regard to urban blight and urban decay, is that it?

MR. MORRIS: That is correct.

THE COURT: Take your time. Look at it.

A The section you have marked which I believe is what you want me to look at under the heading "Terminology, Section 50.3," refers to urgan congestion, urban blight, urban sprawl, urban growth policy, urban design and the quality of the built-in environment.

Q All those are things I was going to ask you about. Would you define those terms?

THE COURT: Mr. Land wants to say something.

MR. LAND: During the last several years I understand the regulations have undergone change. So it might be very helpful to have this particular regulation, having its date and publication number in the Federal

Register.

A Federal Register of Friday, February 22, 1974.

Q Are those the current regulations?

A To the best of my knowledge.

Q To the best of your knowledge they are?

A Yes, I believe so.

Q Would you define those terms that you just read to us?

A Wait a second. These are proposed regulations. I don't know whether these have become effective.

MR. LAND: One further problem. I do not think that these regulations, even in proposed form, were in existence at the time HUD made its two studies, so that we don't have the relevant regulation before Mr.Green.

Q Do you know whether those regulations were actually -- are actually in effect at the present time?

A I do not.

Q YOu don't know?

A No, I don't.

Q Would you define those terms which you read to us?

A Urban congestion represents the things like traffic densities, number of people on the streets, number of people living in a given area and congestion is when those

become excessive in an urban area.

Urban blight I think I previously defined as being in an urban setting, that kind of decay or bad land use which has an adverse impact on the surrounding areas and thus blights those areas.

Urban sprawl is the tendency of urban areas to expand outward at their perimeters. I think the word "sprawl" is intended to be pejorative, intended to describe bad land planning.

Urban growth policy is a policy as to how urban areas ought to develop.

Urban design relates to use of architecture and other design learning in urban areas.

Is there any other term you want me to try to define?

Q Would you tell me whether the negative impact statement that is Defendants' Exhibit E gives consideration to those elements that you have just read from the regulation?

MR. LAND: Your Honor, I think it must first be established that those particular regulations were applicable at the time this particular study was conducted. Otherwise --

THE COURT: You are right, Mr. Land. But regulations along those lines. I mean if they defined

urban blight as somewhat different from the proposed ones that you just examined, why, that's all right, as long as you explain it to me. But is there anything dealing with urban blight, urban decay, the various definitions you have just placed upon the record?

THE WITNESS: Actually, in order for the place to become an urban renewal project in the first place, a finding had to be made by the department at the time the plan was approved meeting the statutory requirements as to decay and also, as Mr. Morris knows, under the State law there are requirements under Section 15 that there be local findings also as to the deteriorated or deteriorating nature of the neighborhood in order for the urban renewal plan to have been approved when that whole process started.

Q But I am asking you, I understand that, but my question to you is, does the impact statement which is Defendants' Exhibit E in this case give consideration to those factors?

A Yes. For example, it deals with the fact of the amount of parking spaces that the project will provide and that the project is going to create "increased demand on the limited number of on-street spaces, and potential congestive double-parking during alternate side parking restriction periods.

"Development of the projects will also add marginally to pollution of the air quality of the area, which is among the worst in the city in terms of sulfur dioxide. However, no Housing Authority development would not be worse than any other non-electric system used by any other housing developer."

Q Mr.Green, was what you just read to us something that was prepared by the HUD department or was it something prepared by the New York City Housing Authority in connection with its application for submission for approval of Site 30?

A No, this was the document prepared by the HUD staff which reviewed the submission by the Housing Authority. So that this statement is one that is prepared by the HUD staff.

Q What page are you reading?

A It is something that says Exhibit 2 on the top.

Q You say that was prepared by HUD?

A The special environmental clearance work sheet, yes. In fact,the document is critical of the Housing Authority's statement that there are no known groups in opposition to this development and describes it as unfortunately erroneous, which was a comment of our staff on the Housing Authority submission.

Q What about the other elements that you read from the regulation?

A There is a statement as to density. "Applicants' work sheet states that the project is located in a high-density residential area, and implies development will not impact negatively on area with respect to density.

"Our review shows the proposed density of 232 d.u." -- which is dwelling units -- "per gross acre is consistent with the combination of R7-2 and C1-9 zoning which governs the site.

"The apartment size distribution listed on work sheet varies from that shown in applications for tentative site approval, which indicates the following distribution."

And then it lists by bedroom count the number of apartments.

"This discrepancy has no material effect on either the anticipated normal maximum project population of about 576, or on the anticipated normal maximum number of children for the project-356.

"The project proposal is in accordance with the development strategy of the City, as expressed in the locally adopted West Side UrbanRenewal Plan, and with the Zoning Resolution of the City.

"Construction of the project will result in a

density, not significantly different from the densities of nearby blocks, according to the 1970 U. S. Census of Housing. Census statistics for the eight blocks in Stage 1 of the Urban Renewal Plan which encompasses 93rd to 97th Streets,Central Park West to Amsterdam Avenue, indicates the following density."

And then by census track and block there are population shown and dwelling units shown.

"We project a population of 1800 in 546 dwelling units for Block 301 in tract 177, where proposed project is to be located."

There is then a discussion of the impact on the schools in the neighborhood. I don't know how much of this you want me to read.

THE COURT: I have had enough of it to this point. The question now is, without in any way curtailing you, you take whatever time you need, how much more time do you estimate, roughly estimate?

MR. MORRIS: 15 minutes.

THE COURT: We either finish it up --

MR.MORRIS: I would prefer to have lunch at this time.

THE COURT: I am afraid you will have to come back.

Keep your seats.

As soon as there is an indication the Court is going to step off, there is movement, uninvited, unsolicited, unwarranted.

By the way, you don't put down laughter or giggle. Some of those statements without "giggle" don't look good.

2:15.

THE CLERK: 2:15.

(Luncheon recess.)

A F T E R N O O N S E S S I O N

2:05 p.m.

THE COURT: I am sorry to keep you waiting, but I had an ex parte matter. The life if a judge is not all beer and skittles.

S. WILLIAM GREEN, resumed.

CROSS-EXAMINATION (Continued)

BY MR. MORRIS:

Q Mr. Green, do you have the memorandum of the director which is the top sheet on Defendants' Exhibit E?

A That is the document captioned "Negative Statement to Accompany Application"?

Q Yes.

A Yes; I do.

Q Now, would you read the last sentence in the next to last paragraph, beginning, "It is our understanding".

A "It is our understanding, however, that although this opposition is motivated by alleged social impacts of the proposed project, such impacts are not environmental impacts within the context of Section 101(b) of NEPA."

Q Would you look at Section 50.3 of the Federal Register and read the first sentence of that provision.

THE COURT: Those are the proposed regulations?

MR. LAND: Right. I want to make it absolutely

clear those regulations were not in effect at the time this statement was prepared.

A "Environment is not defined in NEPA in the CEQ guidelines. However, it is clear from Section 102 of NEPA and elsewhere that the term is meant to be interpreted broadly to include physical, social, cultural and aesthetic dimensions."

Q So that sentence does require the consideration of social issues; isn't that right?

A Yes.

Q And the sentence you just read says that they are not involved, isn't that right, by Mr. Maylott?

A It says that the alleged social impacts which motivated the opposition are not environmental impacts within Section 101(b).

Q That was wrong?

A That would depend on the regulation at that time.

Q According to the regulation you just read, that was wrong?

THE COURT: That was brought up before luncheon by Mr. Land. He brought out the regulations we are concerned with are the regulations that were in existence with which we are concerned, not these proposed regulations of February of this year.

MR. MORRIS: Your Honor, they are exactly the same.

THE COURT: Word for word?

MR. MORRIS: Yes.

THE COURT: How did I know? You should have said they are exactly the same.

MR. MORRIS: They are exactly the same.

THE COURT: Mr. Land what were you going to say?

MR. LAND: I would like to see the regulations which are exactly the same.

THE COURT: What is that?

MR. LAND: I would like to see the regulations which are supposed to be exactly the same.

MR. MORRIS: That is a matter of law, your Honor, which will be established by us on the briefs.

THE COURT: I say this, gentlemen:

Regardless of whether or not they are the same, he has the right to put that kind of a question to Mr. Green, and it comes within the expertise of Mr. Greet. Mr. Green has met it, and we have his answer.

Let's go on to something else.

MR. MORRIS: That is all.

THE COURT: Any redirect?

MR. LAND: Two questions.

THE COURT: Knowing you, Mr. Land, I will settle for

ten.

MR. LAND: Will you concede a Mr. Boomis, in the real estate field, has announced intention to construct a luxury building at Broadway and 96th Street?

MR. MORRIS: I will not.

REDIRECT EXAMINATION

BY MR. LAND:

Q Mr. Green, assume that a real estate developer has within the last week or so announced his intention to construct a high-rise luxury apartment building at the corner of Broadway and 96th Street. How does such an expressed intent by a real estate developer affect the stability of the West Side Urban Renewal Area?

MR. MORRIS: I will object, your Honor, because this record has not established in any way that any such announcement was made, except that there was an article in the newspaper.

THE COURT: We dealt with that already. The way we have dealt with it was to strike the testimony on it. This is a different approach.

We will not have Mr. Green available after this case is closed, in the sense that he will not be available to add to the testimony. He is here now. Suppose within a week, or suppose between now and the time this case is closed and the

evidence is locked -- suppose that a pronouncement or announcement by this real estate person really becomes an accomplished fact. Am I not to have the benefit of the testimony of an expert as to whether or not, if that situation does go forward -- as to what would be his expertise reaction as to its effect et cetera et cetera?

I will take it with that understanding and, of course, with the distinct understanding it is only an assumption and pure surmise.

MR. LAND: It is purely a hypothetical question.

THE COURT: Yes.

A I would believe that that would demonstrate that a builder believed that he would be able, a couple of years from now, when he finally got his structure completed, to command rents on the order of $120 a room per month or higher, in that neighborhood, and that was an index of his belief that that neighbhood would continue to be attractive to people of relatively high incomes.

THE COURT: How low will you go down in the rental in order to have what you just said still be true, as you see it?

THE WITNESS: Your Honor, the point I am making is that this development is going to be a completely non-assisted development, as I understand it. That is going to be the kind

of rent level.

THE COURT: Will it also be true, what you just got through saying, if the rent was $70 a room instead of $120 a room?

THE WITNESS: Yes; if you could get people into the neighborhood that would be willing to pay $70 a room per month, that would indicate it is a stable neighborhood.

MR. MORRIS: This proposed project is a 421 project. It is not totally unassisted.

THE COURT: That gives you a right to ask more questions. You can go in and ask all the questions you wish. Go ahead, Mr. Land.

MR. LAND: I have no further questions.

RECROSS-EXAMINATION

BY MR. MORRIS:

Q Wasn't the Boomis project that was announced at 96th Street and Broadway a project under 421 of the Real Property Tax Law, which gives one hundred per cent tax abatement to the project, for the first two years of the project?

A And declining tax abatement thereafter over a ten-years period. I would assume it was that, yes.

THE COURT: Your answer still stands?

THE WITNESS: Yes.

THE COURT: Are there any other questions before I

excuse Mr. Green?

You are excused.

(Witness excused.)

MR. LAND: Mr. Morris' question was directed to the Boomis project. It was in the form of a hypothetical. Do we take that to mean now that Mr. Morris stipulates that Mr. Boomis in fact made such an announcement?

MR. MORRIS: No, sir; you are not.

THE COURT: All right. He stands positive on that ground.

All right. What else?

MR. LAND: Your Honor, we call to the witness stand Mr. Sidney Morison.

S I D N E Y H . M O R I S O N , called as a witness, being first duly sworn, testified as follows:

MR. MORRIS: May the record show that we were not advised that Mr. Morison would either be a witness or that he would be called at this time.

MR. DOUW: Your Honor, I gave Mr. Morris a list of our witnesses for today. If I inadvertently left Mr. Morison's name off, I apologize.

THE COURT: All right. Proceed.

MR. MORRIS: YOu didn't. I am sorry. YOu didn't. His name is on here. I assumed that he was being called by

the Federal Government, and that is why I did not look at your list.

THE COURT: All right. So it is on.

MR. MORRIS: I was told this morning.

THE COURT: All right.

DIRECT EXAMINATION

BY MR. LAND:

Q Mr. Morison, what is your current occupation?

A I am principal of Public School 84 in Manhattan.

Q For how long have you been a principal of Public School 84?

A Since November 1969 I have been community principal.

Q What is the name of Public School 84?

A It's also called the Sol Bloom School.

Q What is its exact address?

A 32 West 92nd Street. That's between Columbus Avenue and Central Park.

Q Mr. Morison, could you very briefly give us your educational background?

A I received my bachelor's degree in mathematics from Columbia University and my master's in school psychology from City College, and I am currently enrolled in a doctoral program at the University of Massachusetts, at Amherst.

Q Prior to your teaching assignment -- excuse me --

your assignment as principal at P.S. 84, have you had occasion to do any teaching?

A Yes.

Q What was that?

A I taught mathematics in junior high school, and, as a matter of fact, Joan of Arc Junior High School, which is our -- the school we feed into. I taught mathematics there for seven years, and during two of those years I was chairman of the math department.

Following that, I spent two years as mathematics coordinator in that school district, and that entailed teacher training, training teachers in the elementary schools throughout the district. And then, for the last almost five years I have been working as principal of the school.

I have taught several semesters at City College, teaching math to teachers. I taught at Teachers College, Columbia University, individual intelligence testing, and I taught at Yeshiva University in a program orienting Peace Corps returnees in the New York City school system.

I currently work, I guess on a free-lance basis as consultant to various school communities or administrative groups around the country, people who are interested in models of integrated education or various kinds of reorganization, school reorganization.

Q What geographic region does P. S. 84 cover, in general block description, if you could give us that?

A Approximately from the south side of 97th Street to the north side of 90th Street and from Central Park to Riverside Drive, with certain streets cut out, but we generally service most of the Urban Renewal Area. We are known as the Urban Renewal School. We have children from most of those buildings, Mitchell-Lama Houses, public housing, brownstones, you know -- from everywhere.

Q What is the age group that your school serves?

A Age?

Q Age.

A From four to eleven or twelve. Pre-kindergarten to Grade 6.

Q Approximately how many students do you now have?

A Short of eleven hundred.

Q And approximately how many teachers do you now have?

A Approximately fifty-five teachers. We have also a staff of some twenty-five to thirty paraprofessionals, several school aides, kitchen staff, custodial staff, and we also have a corps of student teachers from three universities.

Q Could you give me the approximate racial breakdown

by percentage, of your students?

A Let's see. According to last year's -- last October's figures, I think it is about forty-two per cent Hispanic, about twenty-seven black and the remainder we classify as "others".

Now, that's mainly white, and there may be two per cent oriental, but mainly white.

Q You mentioned that your work deals with models for integration. Could you explain what you mean by that, as applied to P. S. 84?

A Well, we have an integrated setting, as you can see. It is mixed not only ethnically, but it is mixed economically. We have children that come from a range of different backgrounds, from very poor to upper-middle class, and our classes are arranged or formed heterogeneously.

In fact, it is part of our educational philosophy that children need to be part of that kind of community, which not only resembles what exists outside, but we will encourage this kind of learning situation.

Children need to have a variety of people with whom to interact to get feedback, consequently, from children of different ages and different backgrounds, so as to, you know, sharpen their own view of the world, and so we have tried to organize all our classes on this basis.

Q When you say "heterogeneous classes", does that mean each class has proportionately about the same ratio of all economic, racial and educational types within one class?

A Well, to the extent possible. Our district has been committed for a number of years to quality integrated education, and our school has tried very hard to duplicate that, so we have formed classes by taking into account the ethnicity of children as well as their academic achievements as well as their sex, so we try to balance with all of these -- with these three factors in mind.

Q Do you participate in the Beacon Light program?

A Yes.

Q Can you explain what that is, to the Court?

A Well, I should say that for the past four years or so we have had many visitors -- I would say hundreds of visitors -- from around the world, as a matter of fact, coming to visit our school in order to see our program in operation, and our program consists of this kind of integrated setting with focus on the child, a very child-oriented program.

People have come to visit through various colleges because of articles they may have read in the newspapers and because the Board of Education in fact sends a lot of people to our school.

Dr. Gaines, who is one of the deputy --

THE COURT: Yes, Mr. Morris?

MR. MORRIS: Your Honor, I respectfully move the answer be stricken. It is not responsive to the question.

THE COURT: Yes. It is not responsive.

THE WITNESS: I am sorry.

THE COURT: It is all right. I will let it stand. It is an amplification of what you have already said, anyway, but let us have read the pending question to the witness.

(Question read.)

A Dr. Gaines, who is one of the deputies to Chancellor Anker, is the director of the learning cooperative, and specifically within that she has an organization called the Beacon Light Schools.

Now, these are schools which have been identified as being outstanding for their educational programs, and we meet regularly and share our philosophies and have visits from one school to another.

THE COURT: So that yours has been designated as one of the Beacon Schools?

THE WITNESS: Yes. So they channel visitors who come to the City to our school.

Q To learn what it is that you do that contributes to the excellence of education?

A Yes.

Q You mentioned you had a number of paraprofessionals. How many, approximately, do you have?

A I would say about twenty-five.

Q Do they work with any particular project?

A Yes; they are -- they are paid with Federal money for so-called target children from designated areas like New York City, and they work specifically toward raising the reading levels of children and other skill areas. They work in concert with our teachers, and, you know, along with our normal programs, but specifically to keep those reading levels at a normal level.

Q Could you tell us about the deportment problem at P. S. 34 over the last five or six years?

A I don't think there is much of a problem right now, not really any more so than any school. When I first came in, in 1969, it was just after two major teachers' strikes and several changes of administration, so naturally there was quite a bit of chaos at that time, children testing new administration, teachers not being certain, and, you know, it was not -- it was a time for getting to know people and establishing routines and what-have-you, so that there were perhaps excessive fights, let's say, and problems in supervision and what-have-you.

We have been working on that steadily, I think, to

a point where that practically doesn't exist, at least the situation I just referred to.

We have no more than what might be termed as normal- you know, child's -- children's problems.

Q Give us a few examples.

THE COURT: You see, if we only had testimony on what is normal, then your answer would have some significance, but there hasn't been any such testimony, so you will have to explain that to me.

A I believe that the atmosphere at P. S. 84 is quite exceptional, in that the kids seem to respect one another, and there seems to be mutual respect for adults between adults and children. When fights arise, as they will ---

Q Gang fights?

A No, no, no. I am talking about just individual fights as between two kids in a class over something that occurs right there.

THE COURT: With what frequency does that occur?

THE WITNESS: Very low frequency.

THE COURT: Such as once a month, once a week, once every day? What?

THE WITNESS: Sometimes I don't even know about them, they happen so infrequently. I can't give you a number. I am sorry.

THE COURT: All right. Go ahead.

A (Continuing) But if when when they do arise, they are handled within the classroom, if that's where it starts, within the school, in a very community-oriented fashion, where children can gain some insight into the nature of the problem that started it, and there is almost no carryover outside, you know, where kids will wait for other kids to continue a right.

Q They don't carry a grudge outside; is that what you are saying?

A No.

THE COURT: I understood that. All right.

Q How is the school in terms of racial tension?

A There is practically none. I really am not aware of any racial tension. As I said, the classes, in the previous testimony, the classes are well integrated. That's been accepted by the children. They have been accepted by the parents, and we don't have that.

Q To the extent that you do have some deportment problems, are the children involved in those problems ones of low-income families and of minorities?

A Okay. The school has close to eleven hundred kids, so out of that number there are bound to be some outstanding problems. But those problems are as integrated as the school

itself, and there is no indication to my mind and no correlation between the problems and any particular ethnic or racial group.

Q Or economic group?

A Or economic group.

Q Do you have a program for the mentally retarded at P. S. 84?

A Yes. Our school is really diverse, not only in terms of ethnic background and economic, social background, but we have also a program for mentally retarded children. It's been there as long as I can remember. We have currently three classes of children termed trainable mentally retarded, supposedly not educable, and traditionally the way I understood it, they were always isolated from the rest of the school and treated very, you know, separately, and -- We have over the years integrated them within the normal programs, so that it is not unusual to see those children visiting with other classes and vice versa, and the other kids have gained tremendous insight into just normal development through seeing and working with mentally retarded children.

THE COURT: How extensive is that? How many would you say, approximately?

THE WITNESS: It is a small group, less than twenty, I think, approximately.

THE COURT: All right. And how has that approach worked out, by the way, where you assign such children to the regular classroom? Has it been working out well?

THE WITNESS: Well, extraordinary. One year, a class on one of their first trips saw the film "The Wild Child", and they were really intrigued by the way this child was found in that wild situation and then educated, you know, and eventually became socialized. And when they came back to school, they began tutoring younger children and visiting the retarded children in their classes, and through this interaction published a thing called "How Children Learn".

So that, as I said, we have gained tremendous insight into the range of problems that human beings have, and I think it has done wonders for the kids.

THE COURT: Very well.

Q Could you tell us the reading proficiency at P.S. 84 as measured by the city-wide reading tests?

A We fared -- We continued to fare normally and in many cases better than normally. With the exception one grade last year which scored low due to giving the wrong level of the test to that grade, we do at least as well as, in many cases better than, children in other schools of that age.

Q Do you have a vandalism problem at P.S. 84?

A Practically none. I can think of maybe two or

three incidents over the past five years which involved---

THE COURT: All right. Next question. I don't need any development of that. If you are testifying under oath and you are telling me only two or three over five years, that is enough of a high recommendation on that score to let it drop.

What is the next point?

THE WITNESS: May I add something related? All the schools in the city have been allocated money to hire a school security guard, guards or security aides, and the number of hours is allocated on the number of incidents the schools have, and because the number of incidents has been low, we have fewer hours, and we have a school security aide rather than a guard.

THE COURT: That's a good point.

Q Could you tell us of the graffiti problems you have, on the school problem?

A We are adjacent to a Parks Department yard, and that's used by everybody in the community. We have graffiti on the outside of the building that's I guess as much as you see anywhere in the city, and within the school, it has -- it's varied. At the present moment there is very little, practically none. Last year there was a period of time when there was a sudden, you know, excess. The custodial staff

has kept after it.

This year the kids are generally -- the walls are generally clean.

THE COURT: Would you devote a half a minute --

THE WITNESS: Sure.

THE COURT: What do you understand precipitates such manifestation? What is that?

THE WITNESS: Generally speaking, I am sure it has to do with people's inability to express themselves and to be recognized as individuals in a general society, and I think that's why you see it on a large scale.

Specifically, in a school, let's say, I have seen vandalism in the form of graffiti or in the form of breakage or in the form of fights and so on, when children don't feel a part of that institution or when they feel that that institution really --

THE COURT: Doesn't understand them?

THE WITNESS: Yes; right. And I am happy to say that our children are relatively happy, and they are involved in the school, the life of the school, and I believe that's one reason why we don't find much vandalism.

THE COURT: All right.

Q Could you tell us the degree of parent involvement with the affairs of P.S. 84?

A Yes. It's quite extensive, and I must say quite positive. Beginning where --

THE COURT: What do you mean by "quite positive"? Do you mean they take you over the coals? I mean that. Are they respectful, or do they start to take over?

THE WITNESS: They are respectful, and at the same time they would like some participation and sometimes some voice in the affairs of the school. But they have always been respectful.

In 1969 I was selected by a teacher-parents group, professionals and school board, so they were actively involved then, and that was a pretty good cross-section of parents.

It is not unusual to see, as an everyday occurrence, parents in the classroom or in the school at large sharing their professional talents at large with the kids. A woman who has some property upstate and raises sheep was, not too long ago, working with a group of kids outside their classroom, showing how the wool is sheared and carded and dyed and so on.

This is a very common occurrence. There are classes where parents are invited in on a regular basis to tell, you know, what they do, what profession they are in, and the kids use that as a way of gaining information.

It is not unusual to have parents helping out, in

one way or another, a parent who is an architect helping us work out problems within the building in terms of use of space or construction, and it is not unusual for parents to get involved in raising money by having book fairs, bazaars and that kind of thing.

And I might add one other thing, also very important: The original parents' association was restructured, and it is now a parent-teachers association, and the old executive board is now replaced by -- well, they call it a board of directors, and they are eleven parents and eleven staff members. I think that is very significant. And that body is used as a vehicle for discussing important issues before I make decisions about them.

I might initiate some things, or they might, and we try to discuss them there, and then I will make some decision.

We have a personnel practices committee, which is composed, again, of parents and teachers, so when I interview prospective teachers, I do -- we do it as a group. We discuss it afterwards, and that's that. Then I decide on who is going to be hired or not.

So that they work very cooperatively in a advisory capacity, and I find it very helpful.

Oh, pardon me. A lot of things occur to me. One of the things I think is to the school's credit is that this

kind of community effort occurs outside the school as well as in terms of the larger community.

We have relations with people in the neighborhood who help us, let's say,with certain outstanding problems where children have to be referred for further guidance or to some agency or other. We frequently have ordinary parents in that neighborhood contributing, you know, helping us make contacts. Specifically,Strycker's Bay has been extremely helpful in helping parents with housing problems, helping them get in touch with, again, some agency or other where we don't have enough resources.

We work with other schools in the district. Columbia Grammar School uses our gymnasium, and we use their swimming pool. Trinity School has sent tutors over to P.S. 84. They have invited us to musical programs and other affairs. Alders wanted to become involved with us.

THE COURT: ~~You~~ You recognize, as you go forward with your testimony, you are making out a perfect case for the higher educational authorities and others to say that they need not give you any help at all, because you are all very self sufficient, and everything is going along in fine order, and therefore your application for funds is denied.

How about that?

THE WITNESS: I am afraid there is a lot of truth

to that.

THE COURT: All right. Isn't it really this, Mr. Morison?

THE WITNESS: Not yet, no.

THE COURT: Now, Mr. Morison, aren't you really saying that the essential ingredient of caring is what makes things go, even though there are severe limitations of funds and physical equipment and all the rest of it? That is true of the teachers, is it not? It is a true of a lawyer. It is true of a Judge. It is true of a doctor. It is true of human nature, isn't it?

THE WITNESS: Yes. Yes, indeed. You are saying it very well.

THE COURT: So that is a priceless ingredient, and it is the indicia of success.

THE WITNESS: Well, yes, and we have tried to inculcate that in the school among our staff. The children are the most important ingredient, and a lot of problems can be overcome if we really respect the children.

THE COURT: Of course.

THE WITNESS: And we get it back.

THE COURT: All right. Next question.

BY MR. LAND:

Q Do you have a program at the school known as GAME?

A Yes.

To continue with the community involvement, this is an organically developed program, started by a teacher from the community who has an extensive art background, who has brought together three schools, and we participate by sending classes with their teachers to this center, which is housed on 86th Street, where the children participate in a few in-depth experiences like weaving, pottery, printing, photography, and that center is hooked up with the museums around the city, most of whom have been trying to work within the schools for years, and they are thrilled with that program.

We send children to museum workshops. Our teachers work there voluntarily after school. They participate in workshops. We get the finest experts from the museums coming to that workshop center to give workshops, and it is one of the outstanding programs, and it is being picked up as part of a larger board of education program, which they call All the Arts For All the Children.

Q What do the letters GAME stand for?

A Growth through Art and Museum Experience.

Q Could you tell us something about the lunch program at P.S. 84?

MR. MORRIS: Your Honor, we are going into considerable depth and detail.

THE COURT: I disagree with you. We should go into considerable depth on that which is pertinent, and so far it has been pertinent.

What you are saying is that we don't want to know about the lunch because that has nothing at all to do with what we are concerned about. But I presume you have something other than just --

MR. LAND: Just eating. Yes; I do.

THE COURT: All right. Why don't you put the direct question to him?

Q Do the parents in the neighborhood participate in a unique way with the lunch program?

THE COURT: All right. Now we know where you are.

All right. And the answer is yes?

A Yes.

THE COURT: In a few words, without elaboration, how does that fit in?

THE WITNESS: Years ago, they participated in a club program because we feed so many children it is difficult to supervise all of them within the building, so they participated in the club ~~probram~~ program where we offered art and music and other things to children during that hour.

Currently, we have a corps of parents who help in

the lunchroom by sitting with the children, eating with the kids and helping them to socialize, and, in fact, while they are keeping an eye on their own children, they also keep an eye out for the others.

THE COURT: All right. I've got it.

MR LAND: No more questions, your Honor.

THE COURT: How about the City?

MR. LINER: No questions, your Honor.

MR. McLOUGHLIN: No questions. In fact, Mr. Land helped me with this witness.

THE COURT: Yes. Mr. Morris?

MR. MORRIS: No questions.

THE COURT: Thank you.

(Witness excused.)

THE COURT: Keep it up, Mr. Morison.

MR. MORISON: Thank you.

THE COURT: All right.

MR. McLOUGHLIN: Your Honor, I call to the stand Miss Elaine Schwartz.

E L A I N E J. S C H W A R T Z, called as a witness, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DOUW:

Q Miss Schwartz, I think you will have to raise your voice.

A All right.

Q Where do you live?

A 55 West 94th Street.

Q Is that within the West Side Urban Renewal Area?

A Yes.

Q Is it within the so-called pilot project area?

A Yes. We are a pilot project block.

Q What kind of building is your residence?

A My husband and I own a brownstone.

Q Would you describe your family, giving the ages of your children?

A We have three children: daughter, fourteen; a daughter, eleven, and a son, seven.

Q When did you purchase your brownstone?

A Excuse me. I wasn't sure of those, and I wrote them down. May I go get the card?

THE COURT: Of course.

(Pause.)

A (Continuing) The initial closing was July 1967, and we moved in in May of '69.

Q Thank you. Did you purchase the brownstone from the City of New York?

A Yes.

Q And prior to the purchase of your brownstone, did you consult with any officials at the site office on 89th Street, in the area?

A Mr. Hunter and Mr. Lauria.

Q Could you tell us how many times you talked to Mr. Hunter and Mr. Lauria?

A Maybe like five.

Q What was the purpose of your meetings with them?

A They showed us -- they discussed the finishing of brownstones. They showed us possible plans that the City had made available to brownstone owners with City brownstones, and they showed us some brownstones.

Q Other than the areas that you mentioned in your discussions with them, was there anything else which you discussed with them about the area or the plan?

A I don't -- no.

Q Where did you live prior to your moving into your brownstone?

A 97th Street.

Q And what --

A We lived in Park West Village, between Columbus and Amsterdam Avenue.

Q How long did you live in Park West Village, approximately?

A We moved in there '69, and my daughter was born in '59 -- we lived there about nine years.

Q During the time you lived there, during any part of the time or the whole time, was Park West Village guarded, the grounds guarded?

A At the end. It was not -- there were no guards there when we moved in. Then therewas a tenants' association -- Do you want to know about this?

No, there were no guards there, and about a year before we were going to move out --

THE COURT: There's an answer. Is that it?

THE WITNESS: There were no guards. A year before, a dog with guards was hired by the managers, and they were on duty all the time. Big police dogs.

Q Could you briefly describe the circumstances, if you know, that the guard and police dogs were hired, or employed?

A Well, initially, the tenants' association had a vote, and there was a big kind of war between one faction and

another. One faction wanted to gate in the whole property and make it like an armed camp, and another faction was against that.

My husband was an officer of the tenants' association, at that time, and we didn't want to be -- we didn't want to be an armed camp. We wanted to live with part of the community. And there's a lot of people walk through. It was a very pleasant kind of thoroughfare to go through Park West Village, so we had fought against that, and that group did win. We did win, and it wasn't done.

And then, a few years later, a year before we left, the management, I guess under pressure -- but I don't know from whom -- got these guards with the shepherd dogs, police dogs.

Q Miss Schwartz, where do you work?

A Fordham University.

Q And what is your position there?

A I direct a program called teaching teacher trainers, whose main -- it is a Federally funded project, and our main goal is to make effective changes in the thinking of administrators towards the public school system.

Q Where is your office located?

A Fordham University, Lincoln Center, West 60th Street.

Q Does the program which you direct relate to a particular area of the city?

A Yes; it does.

Q And what area is that?

A The West Side. We work exclusively actually with the West Side.

Q When you say the West Side, could you define exactly the streets?

A Yes. We work with Community School District 3, which runs from 59th Street to 121st Street, from Riverside Drive to Central Park, and then it swings over to Lenox Avenue and takes in parts of South Central Harlem.

Q Prior to your present position, did you have previous experience with the schools which served the West Side Urban Renewal Area?

A Yes.

Q Would you describe what that experience is?

A I was on the Community School Board, and I was chairman of the Community School Board.

Q What years were you on the School Board?

A '68 to '71.

Q What years were you chairman?

A '69.

Q And is that School Board Number 3?

A Yes.

Q Is that the number?

A Yes.

Q Now, in your present position as director of TTT -- is that what you call it? As director of TTT, do you have occasion to work with teachers and administrators in the schools on the West Side?

A Yes. And people at Fordham University that work within those schools.

Q And how long have you worked at that position?

A About three years.

Q Now, Miss Schwartz, I would like you to comment to the Court on the good and bad things about the schools which you are familiar with in the West Side, both from the program which you direct and your services on the school board prior to that.

MR. MORRIS: I will object tothat, your Honor, to a question as broad as that, covering the whole area. It is not relevant to this.

THE COURT: It is too broad. I don't mind where you have a witness who has had this kind of experience. It is up to the Judge. But I am willing to have you lead or, rather, suggest subjects that you wish to address her attention to.

Of course, in your answers, Mrs. Schwartz, you will just confine yourself to the questions put to you.

THE WITNESS: Yes.

THE COURT: All right.

MR. DOUW: Your Honor, I will break down the question, and I will ask Mrs. Schwartz about the good features that she finds about the schools which she serves, and I can take one subject matter at a time.

MR. MORRIS: Your Honor, my objection is to including a discussion of schools in the area described by the witness, which runs from, as I understand it, 59th Street up to 121st Street and includes a part of East Harlem through West Harlem.

I think that is far beyond the scope of the issues in this proceeding.

THE COURT: I think it embraces the issues. It embraces the area that we are concerned with.

As I understand it -- and if I am wrong, she should correct me -- she meets with these people from other schools in the area, and they enter upon a discussion, a meeting dealing with observations of students and teachers and so forth within that area. Or am I wrong?

THE WITNESS: No; you are right.

THE COURT: And those discussions result, I take

it, in studies and papers and in other phases --

THE WITNESS: Hopefully for change.

THE COURT: -- looking toward change.

Why isn't that relevant?

MR. MORRIS: It is relevant if it were related to the immediate West Side Urban Renewal Area. I would have no challenge. If it covers an area as wide in scope as from 59th Street to 121st Street, including parts of West Harlem, I think that goes 'way beyond the issues in this proceeding.

THE COURT: Can you address your remarks to the area with which we are concerned?

THE WITNESS: Yes.

THE COURT: You may say it is the same in the entire area that you were asked about from 59th to 125th, but try to give your answer to the area that we are concerned with, and that is from 87th to 97th, from Central Park West to Amsterdam.

THE WITNESS: I am really rather well acquainted with those schools, because my own children also attend schools within that area, so --

MR. DOUW: May I address myself to that question for a moment? There have been a number of instances in which we have looked not just to the Urban Renewal Area itself

but the area beyond that, and of course it would be open to some argument as to what area is relevant to the issues that we deal with here.

THE COURT: Let's be practical.

Mrs. Schwartz, I presume your answer would be the same for the entire area from 59th to 125th as it would be from the West Side Urban Renewal Area, of which I gave you the general geographical lines; right?

THE WITNESS: Right.

THE COURT: Is that not say?

THE WITNESS: Depends on his question, but I think so.

THE COURT: Well, the question he asked you, the pending question, the question you haven't yet answered.

THE WITNESS: I forgot.

THE COURT: All right. Let's give the question. Just bear it in mind. All right.

Will you read it, please.

(Question read.)

Q Mrs. Schwartz, let's start with the positive features of the schools you are acquainted with. Can you tell us something about the quality of teaching in the schools, generally?

MR. MORRIS: Again, your Honor, "in the schools

generally" refers to a large area.

THE COURT: Yes. Just confine your answer to the West Side area of renewal, will you please?

Can you tell us?

THE WITNESS: Yes.

THE COURT: Next question: You will tell us. All right.

A There are a great many requests from universities from all over the city other than Fordham included, but other universities, to place student teachers and apprentice teachers and supervisors, supervisors who are being trained in the schools, particularly in the West Side Urban Renewal Area because of the excitement of the education that is happening within the buildings.

Q And could you describe in more detail the excitement of the education?

A Most of the schools within that area have many different programs going because of versatility of the student body. They have bilingual programs; they have child centers; they have traditional classes; they have mixed classes, where they put a kindergarten with the first grade and the first grade with the third grade, where they combine different classes in attempted to do different things. They have heavy reading programs, individualized reading programs;

they have outside funded reading progr.ms; they have organizations like GAME working within them.

So for training purposes these offer a great ~~wealth~~ wealth, and the university's responsibility is first to its student, not to the public schools, so they want to place their students where it is good for their students.

The selections of schools are made strictly by the university with their students in mind, not with the public schools in mind. They are not sent in as assistants to the public schools. They don't like to send them to schools, actually, where the schools need a great deal of assistance, because that's not fair to the people being trained.

EOT 2pm

Q Now, you mentioned a number of special programs. Are these government funded programs?

A Some of them are government funded programs and some of them are funded by the school district or supported by the schools in a school district.

Q Is the level of funding of these special programs unusual in this area, to your knowledge?

A District 3, last year there were $17 million given out in the whole state of New York for a program called ESAA, $17 million in the whole state of New York, and District 3 got $1.3 million of it. It's regarded as a very good area to try new programs in, I mean by the state, by the government and as well by universities. They are heavily funded.

Q On the other side, as far as the problem areas are concerned, would you tell the Court something about that?

A When there are children arriving every day from foreign countries as come to the United States or from places that speak different languages, there is a problem in the schools on how to handle the education of these children, and that's what everybody is trying to do now and that's what often -- there are often problems in the schools because of the numbers and how the numbers

vary and how they are to be handled and can enough bilingual teachers be found to handle them. This causes I suppose sometimes what you refer to as problems in the schools.

MR. MORRIS: There is no indication from the witness that the answer is related in any way to the situation in the West Side Urban Renewal project.

A She told me.

THE COURT: That is exactly what she is doing. She is concentrating her answers only on the West Side Urban Renewal area.

MR. MORRIS: It sounded as if she was giving them generally.

A South Harlem --

THE COURT: You are getting to be a participant.

THE WITNESS: I am sorry.

THE COURT: You don't answer him. All you do is answer questions put to you.

THE WITNESS: I am sorry.

THE COURT: To clear it up and put Mr. Morris' mind at ease, your answers so far have related to the West Side Urban Renewal area.

THE WITNESS: Yes.

THE COURT: When you talk about these children coming from other countries, particularly from Puerto Rico,

you are talking about the children who do come in and present problems because of their unfamiliarity with our language? That is from time immemorial when groups come who cannot speak. But you are talking about those children who do come into the schools in this West Side Urban Renewal area?

THE WITNESS: Yes.

THE COURT: All right.

Q Insofar as the problem of bilingual education, can you give an assessment of that, how successfully the schools in the West Side Urban Renewal area are meeting that problem?

A They have classes for the bilingual children and the classes are moving up slowly from kindergarten up. They are up to fifth grade in many of the schools and I think -- I don't think I could -- I don't think I could state how successful they have been, but they are trying to do what they are supposed to do and they are doing it as well as they can. I don't think there has been any real evaluation how successful the program is.

THE COURT: If I may interrupt, Mr. Douw.

The bilingual situation, teachers, for instance, that undoubtedly presents a problem, doesn't it, right?

THE WITNESS: Yes.

THE COURT: Another thing, the west side happens to be a place where Puerto Ricans elect to go, right?

THE WITNESS: Yes, and Haitians.

THE COURT: And Haitians. So that those problems, popular as they are and troublesome to a certain degree, in order to meet them successfully, are not presented in a lot of the school areas throughout the City of New York, they don't have to cope with that challenge, do they?

THE WITNESS: No.

THE COURT: So that the west side does have quite a concentration of young people who come within that problem situation?

THE WITNESS: Yes.

THE COURT: All right.

Q Is P.S. 84 one of the schools that deals with this bilingual problem?

A Yes.

Q Mrs. Schwartz, let me ask you about your own children in reference to the schools in the Urban Renewal area.

THE COURT: Would you forgive me if I interrupt

again? I don't like to do it.

I presume, too, Mrs. Schwartz, that it would be your testimony that as a result of the challenge that we have just been talking about, the children from Puerto Ricao and from other countries and their inability to speak English, I suppose that one of the results that ensues from such a situation is the antagonism that seems to be normal, although it was never right, on the part of those who should know better toward those who need a helping hand, they don't give them a helping hand at the beginning, the kids begin to fight among themselves, is that true?

THE WITNESS: I think so, yes. I think that's true. I see it more in adults than in children.

THE COURT: Children usually follow the pattern laid down by the adults; don't you find that to be true?

THE WITNESS: Oh, yes.

THE COURT: All right. So that these children who cannot speak our language at the beginning, they do by their very presence cause an inexcusable but nevertheless a stir and creat a problem in the school that has to be met?

THE WITNESS: Yes.

THE COURT: Because of human tendencies to be vile and improper in their character with other human beings, isn't that so?

THE WITNESS: Yes. The schools handle that part very well, though.

THE COURT: That is what I want you to tell me about. How do they handle it?

THE WITNESS: All the schools in that area have Club de Madres. It is a Spanish mother's club.

THE COURT: What do they do?

THE WITNESS: They are encouraged to come in, there are family rooms in all the schools. It is a difference in culture. The South American culture is different from our culture. They don't like to leave their children as soon as we tend to leave our children and they like to be present around the school. They like to be in the lunchroom. That is encouraged in all the schools in this area. It is encouraged by the development of a family room and by the development of these clubs and by a person in each school assigned just to work with the parents of the bilingual students.

THE COURT: Thank you. Next question.

BY MR. DOUW:

Q I would like to ask you, Mrs. Schwartz, about

your own children in reference to these schools.

I believe your youngest child is a boy of seven, is that what you said?

A Yes.

Q Where does he attend school, if he does?

A He is in P.S. 84.

Q And your --

A My oldest daughter graduated P.S. 163 on West 97th Street, which is part of the West Side Urban Renewal area. My other daughter is in P.S. 163.

Q Where is your older daughter attending school now?

A She is in Calhoun.

Q Is that a private school?

A It's a private school on the west side, on West 91st Street, and it's a learning experiment.

Q Would you explain to the Court why your older daughter is no longer in any public school?

A The local junior high school that she would have attended is Joan of Arc or Junior High School 118. The hard work that's been put into the public school systems that began with decentralization has really helped the elementary schools a great deal and it is working up slowly, we hope, to the junior high schools.

My daughter graduated P.S. 163 three years ago and as far as I was concerned the junior high school was not then a place that I wanted her to be educated in, nor that I want any of the other children in there to be educated in, and so we didn't send her there. She is in a kind of experimental school.

Q Your younger daughter is still in P.S. 163, is that correct?

A Yes.

Q Where is P.S. 163 located?

A P.S. 163 is on West 97th Street.

Q What is the address or what avenues?

A Between Columbus and Amsterdam Avenue. It is 163 West 97th Street.

Q Can you describe the school and the students there from your knowledge of the school, first of all in terms of deportment of the students?

A It's a very nice school. It's a very nice school, it's very pleasant, the children are pleased to be in the school and we are very pleased to be parents of children that were and are in the school.

Q But as to the discipline of the children there or the disciplinary problems --

A They are minor.

THE COURT: Next question.

Q As for vandalism, are you familiar with the school enough to tell the Court about problems of vandalism at 163?

A Vandalism, you mean destruction?

Q Yes.

A There is no vandalism that I know of.

Q Can you tell us the approximate ethnic breakdown of 163?

A 90 percent black and Puerto Rican and 10 percent other, which is Oriental and white.

Q And can you describe the approximate economic breakdown of the student body of 163?

A At least 40 percent of the children are on free lunch, which is an indication that they could be or are eligible for welfare. So that would be --

THE COURT: Or low income?

THE WITNESS: Or low income. The major project that feeds 163, the buildings from the West Side Urban Renewal area, are Douglass Housing which is a low income housing development which runs from 100 to 104th. It is really the major feeder into 163.

THE COURT: You say that made up what percent?

THE WITNESS: I don't know what percentage

that building makes up, but 40 percent of the building is low income, at least 40 percent.

THE COURT: That means that the balance is --

THE WITNESS: The balance may or may not be. I know at least 40 percent is. The school is a poorer low income school.

THE COURT: Next question.

Q As to 163 specifically, Mrs. Schwartz, can you give us your estimation of the quality of teaching and the quality of the school?

MR. MORRIS: I will object to that. I don't think she is qualified to give an opinion on that subject.

THE COURT: I think in the light of her recital of her interest and her work in the field of education, I disagree. I will take it, what is your answer?

A The education in P.S. 163 is excellent. It has the drawbacks of all public schools.

THE COURT: To?

THE WITNESS: To wit, that mixed groupings of children are still difficult for teachers to handle, but the children at P.S. 163 there are rather equal and evenly well educated, as well educated -- and the teaching staff is very good and has been there a long time. There

is very little turnover in the school because it is a pleasant school to work in.

THE COURT: Anything else, Mr. Douw?

MR. DOUW: Not on that subject, your Honor. I am turning to another subject.

THE COURT: We will take a short recess.

THE CLERK: The Court will take a short recess. All rise.

(Recess)

MR. MORRIS: Your Honor, before we proceed, may I ask a question?

THE COURT: Sure, Mr. Morris.

MR. MORRIS: In order to make arrangements about the rest of the case it is important for me to know whether we will be sitting on Monday morning of next week.

THE COURT: I was hoping that we won't have to go beyond Monday of next week and I hope you are not going to complicate that.

MR. MORRIS: No, no problem, except on other Mondays the Court has usually started the session at 12:00 o'clock.

THE COURT: I see. You might as well know it will be at noon.

MR. MORRIS: That was my question.

THE COURT: Does that make any difference?

MR. MORRIS: No.

THE COURT: I can switch something else.

MR. MORRIS: I prefer that. I just wanted to know.

MR. DOUW: While we are on the same subject, I provided Mr. Morris -- we are going to have Reverend Farrelly on as the next witness. I provided him with what will probably be exhibits, although not all of them. I hope you recognize that the sudden change of schedule has made it difficult to provide the exhibits and documents as quickly as I normally would have liked to. We will do so as quickly as we can.

THE COURT: And I know Mr. Morris will stipulate wherever he could just the way his opposition has stipulated. Any question on that?

MR. MORRIS: Yes. The only problem is that this is a rather large batch of exhibits and were given to me at 2:15 this afternoon.

THE COURT: I am going to ask Mr. Douw to remember that that was also -- there was also a large batch with regard to Mrs. Schwartz, and you know when you came down to brass tacks you didn't need most of that

stuff. So I don't want it. If the Father has been active in it and I gather he is, he has been here every day taking notes, I don't know whether he is drawing charactures of the Judge or what he is doing, but he seems to be engrossed, he did serve as well as the interpreter, and I presume when he gets on the stand he will be full of it. So do the same thing with him. Until he is challenged, you don't have to fortify what he has to say.

MR. DOUW: I think only a couple of items will be exhibits. What I was raising was to supply them to Mr. Morris in advance. I wanted to apprise the Court because of scheduling that was a problem.

THE COURT: It might be a good idea to have the record note something that Mr. Douw's comments just now brings to mind.

We should have the record reflect that last evening we were informed of a very sad episode that required the absence of Mr. Gold. It is a personal matter in his family and we hope that all works out well. But certainly it is an emergency and there was no other course but to excuse him. We did not have the record reflect this up to now and we are very glad to have Mr. Liner take over in Mr. Gold's absence.

The reason I am prompted to put it on the record at this point is Mr. Douw is correct in saying that the suddenness of this episode with regard to Mr. Gold caused a revamping of the schedule that other counsel had in mind. They had intended to follow Mr. Gold's witnesses and suddenly with Mr. Gold out of the picture for the time being, at least, I directed that they move right in. It was a burden, I am sure, but it is a burden that can be met. I will take it into consideration that counsel have not had too much time but we must go on and do the best we can.

MR. DOUW: Thank you.

BY MR. DOUW:

Q Mrs. Schwartz, have you been involved in the sponsorhsip of housing in the West Side Urban Renewal area?

A Yes.

Q What building have you been connected with as far as sponsorship?

A Columbus Park Towers on the corner of 94th and Columbus Avenue.

MR. DOUW: Your Honor, I think the record should show according to Exhibit S that is Site 16.

THE COURT: Yes.

Q What kind of building is that, Mrs. Schwartz?

A It's a Mitchell-Lama, city, state sponsored middle income cooperative.

Q Would you describe to the Court in what way you were involved in the sponsorship of that building? First of all, give the years you were involved in that?

A 1959 to 1968. The city -- when the West Side Urban Renewal began, if it ever began, the city was looking for sponsors for middle income sites in the area, and several different groups applied. I was involved with one of the community groups that applied to the site.

Q What was the community group you were involved with?

A It was a local Democratic club.

Q And did that club become the sponsor of Site 16?

A No. When the club was told that they were going to be able to get a site, they didn't want to have the site with any kind of political affiliation, and a corporation, Columbus Park Towers Corporation was formed which split away from the club. The club was really just interested in getting housing for middle income people in the area but not in the actual building of

the building.

Q What was your position with that corporation?

A I was executive secretary.

Q Are you familiar with the term of program called secured rentals?

A Yes.

Q Will you describe to the Court what that is?

A Within each one of the Mitchell-Lama co-ops that went up, a certain number of apartments were put aside. It was either a number of apartments or a percentage of families that were to be in the buildings was put aside at a lower rental than the other apartments. The apartments in the building varied in rent. The secured rentals at the time that we began the program were to be $18 a room.

Q Can you recall the rentals of the regular units in that project when it opened?

A The secured rentals when opened went up to $22 a room.

Q They were originally projected at $18?

A Yes.

Q What about the other units outside the secured rentals?

A The others varied according to floor and they

must have ranged from $25 to $35 a room, approximately, because it went up from floor to floor and with apartment layout to apartment layout.

Q I would like to turn again to your present residence. Do you have tenants?

A Yes.

Q How many tenants do you have?

A Four.

Q Could you describe the apartments that they rent?

A There are three one-bedroom brownstone apartments and one studio apartment with a terrace. They are centrally air conditioned.

Q Can you tell us what rents you charge for those apartments?

A The rents go from $195 to $250.

Q Have you ever had any trouble renting the apartments?

A No.

Q On your block, is there a public housing building?

A Directly across the street from us.

Q Do you know families and individuals in that building?

A Yes.

Q Could you describe your relationship of you and your husband to these families?

A My child has two friends that live in that building, so there is a lot of interchange between the children. One of the parents -- our family is friendly with one of the families in the building socially. The children have many friends in the building back and forth.

Q I believe on your block is there an empty tinned up building?

A Yes, there are two but there is one very close to us.

Q How long has that condition lasted?

A About a year.

Q About a year. Why did it become empty, the building?

A It's one of the city buildings. It's one of the city brownstones and it was being used as a relocation site and the families that were living in that building were moved to the building on the corner of 92nd ~~on~~ and Columbus.

Q Do you know that family to be there now?

A Yes, we know them, because they come back to

visit.

THE COURT: Has that situation presented any problem, the two buildings?

THE WITNESS: The empty buildings? Yes.

THE COURT: What problems?

THE WITNESS: Kids can get in them, which is what they tend to do, and once they can get into a building they can get up on the roofs of buildings. Once they get on the roofs of buildings they run across the buildings and throw things down or do whatever kids do.

We have complained to the city and asked them to please try to arrange to have the buildings -- we really want them sold.

THE COURT: Next question.

Q Do you regard those empty buildings as a safety hazard?

A Just in the way I have described.

Q Do you walk around the Urban Renewal area as a habit?

A Yes.

Q Do you walk at night?

A Yes.

Q How late at night are you in the habit of walking ?

A Midnight. I am not in the habit. I have come home at midnight or 1:00 in the morning. Any time.

Q Do you walk on weekends?

A Yes.

Q Mrs. Schwartz, there have been a number of issues discussed in this litigation about what all of us regard as annoyances or worse, and I would like to go through a few of them and ask you for your observation about them.

As to garbage strew in the streets, what is your observation about that in the Urban Renewal area?

A It doesn't seem excessive. You mean do I notice it, I guess?

Q Yes.

A No.

Q Do you notice garbage thrown out of windows?

A No.

Q Do you have any complaints on your block or coming from any source of loud music late into the night?

A We live next door to a music school, but it's rather pleasant.

THE COURT: Listen to the question now.

THE WITNESS: No.

THE COURT: The answer is no.

A I guess not.

THE COURT: If the truthful answer is no, that's it.

THE WITNESS: No.

THE COURT: Next question.

Q Particularly from the public housing building across the street from you, do you have any complaints about loud music or parties late at night or any time, for that matter?

A No.

THE COURT: Next question.

Q Do you observe anything in the area as to fights or disorders between people?

A No.

Q Do you notice people congregating, milling about, or disorderly people sitting around in a way that you find an annoyance?

A In the West Side Urban ?

Q Yes.

A No.

Q I am referring to the West Side Urban Renewal area generally.

Again centering on the Urban Renewal area, have you ever been mugged or had your purse snatched?

A No.

Q Have you ever been accosted in any way which is physical or sexual in nature?

A No.

Q Do you ever receive comments or taunts from individuals which are obscene, hostile or unpleasant in any way?

A No.

Q Would you describe for the Court the occasion when you attempted to have benches put on your sidewalk outside your home?

A We are on a pilot project block and there is neckdowns on the block. There is a space directly, for example, in front of our house where the sidewalk has been extended out so that there is more space in front of our block.

The city came to the block and said that we could pick -- and they gave us a long list of things -- things that could go into these spaces. So there is a space in front of our house and directly across the street in front of the publ housing project. So we have a little music school next door and the public housing project has no playground and no area in their back. There is no area in back of that. So we wanted

a bench and a climbing turtle or an animal that you see in different parts of the city. There are different kinds of figures that kids climb on.

The public housing project also wanted that because they come out and sit also in front of the building just as people wait for the music school kids in front of our building.

So I went to the block association meeting. The 94th Street Block Association does not have -- it is just one representative from each building. There are no tenants in the association. So there was one person from each building and it's a heavily brownstone block. I thought that everybody was going to want that but no one wanted it. We fought very hard for it. We had a petition signed by almost all of the residents of the public housing building because they have more people than we have in our building. The tenants in our building also signed it. But we lost because the block association, which was the voice that the city was listening to, was very much against benches. They said that people would come and loiter on our block if we put a bench on the block and that they wouldn't have any part of it.

Q Am I to understand from one part of your answer

that the tenants in your brownstones are not members of your block association?

A No. We asked permission for them to join but they are not allowed to join that block association.

MR. DOUW: Thank you. No further questions.

THE COURT: Mr. Land.

CROSS EXAMINATION

BY MR. LAND:

Q Mrs. Schwartz, when did you move into your brownstone?

A Memorial Day, 1969.

Q You are in the pilot project area, is that correct?

A Yes.

Q Did you give written consent to the City of New York for the subsequent conversion of Site 30 from a middle income housing project to a low income housing project?

A No.

Q You are on what, 93rd Street?

A 94th.

Q Does Mr. Hudgins live on your block?

A Two Mr. Hudgins.

Q Is there a younger Mr. Hudgins?

A Yes.

Q Does he have a swimming pool on his property?

A Yes.

Q Was that swimming pool on his property when you moved into your brownstone?

A No. He moved in after we did.

Q And then he built his swimming pool?

A Yes.

Q Did you give written consent for Mr. Hudgins to build a swimming pool?

A No.

MR. LAND: Thank you.

THE COURT: Mr. Liner?

MR. LINER: No questions.

THE COURT: Mr. Morris.

end take

Tk 4

CROSS-EXAMINATION

BY MR.MORRIS:

Q When you moved into the pilot project, were you given a copy of the urban renewal plan applicable to the pilot project area?

A I think we had one. I don't remember who had given it. But we do have one.

Q Now, what was the situation about Joan of Arc Junior High School that caused you to not send your child there?

A The education it happens in the school is not the kind of education that we want for our child.

Q What was the ratio or the ethnic balance of Joan of Arc Junior High, if you know?

A There are more white children in Joan of Arc than there are in my children's elementary school.

Q How many would you say there are, what is the ethnic balance?

A I suppose it is about 90 and 10.

Q 90 and 10?

A 90 per cent black and Puerto Rican and 10 per cent other.

Q Did you make an investigation of the level of education at Joan of Arc?

A Yes.

Q And you decided as the result of that education not to let your child go?

A Yes.

Q And is Joan of Arc right in the West Side urban renewal area?

A Yes.

MR. MORRIS: That is all, Mrs.Schwartz.

(Witness excused.)

REVEREND T H O M A S F A R R E L L Y, called as a witness, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. DOUW:

THE COURT: You have been in the courtroom and you have heard me say so many times to witnesses to please just answer the question, and therefore, I am going to expect more from you than I would from them in that respect. So, please, you have got a good lawyer there, and lawyers as you have noted on both sides know what they are about, and if they want something they will ask for it.

Yes or no, wherever you can, will you please, so we can move forward.

THE WITNESS: Yes.

Q Father Farrelly, what parish are you assigned to?

A St.Gregory, the Great.

Q Where is that located?

A It is located at 144 West 90th Street, between Amsterdam and Columbus Avenues.

Q In the West side Urban Renewal area?

A It is, yes.

Q How long have you been assigned there?

A Since 1961, September of 1961.

Q Are you a member of Strycker's Bay Council?

A Yes.

Q How long have you been a member?

A Since 1968.

Q Raise your voice just a bit, if you can.

What offices have you held for Strycker's Bay Neighborhood Council?

A I have held the office of vice-president in 1970 and in 1971, 1972, 1973, the office of president.

Q Are you currently the president of Strycker's Bay?

A I am currently the president.

Q Is the council a so-called PAC group?

A Yes.

Q Could you describe what a PAC group is?

A It is Project Area Committee, which is an agency funded by Federal and municipal funds in order to insure community participation in an urban renewal plan.

Q Why did you become a member of the council?

A When I came to St.Gregory's it was a frequent occurrence for me for parishioners to come in and ask for my assistance or my advocasy, my advice on matters of housing, housing maintenance, problems that they were running into, seeking new housing and I would serve very often as an advocate for them.

I found, however, that the problem was far greater than I could handle as a single advocate in a single parish, and so I learned that it was helpful to me to refer people to Strycker's Bay where they would receive a very effective advocasy, a greater scope of advice, and also I began to learn more about the problems facing my people, and so I became a member of Strycker's Bay as a delegate originally from St. Gregory's, and eventually elected to office.

Q As the result of your involvement with the council, have you become familiar with the housing conditions in the West Side Urban Renewal Area?

A Yes.

Q Do you consider yourself an expert in housing programs?

A No.

Q Would you describe to the Court the organizational structure of Strycker's Bay Neighborhood Council?

A Strycker's Bay Neighborhood Council might be best described as an umbrella organization of the organizations within the community, the West Side Urban Renewal Area community, or its immediate periphery.

It would include churches, there are ten churches, 18 day care centers and schools, owner resident associations, I believe there is two of those, there is block associations, building associations, cooperative housing board representatives, political clubs, social action -- social clubs.

Q Is there an executive committee?

A Yes.

Q How is that selected?

A It is selected each year by nominations of nominating committee from delegates from the Strycker's Bay Council who present a slate of candidates and the candidates are elected to office by delegate members.

Q How does an organization become a member of Strycker's Bay?

A It becomes a member by application and at which time each application is reviewed by a membership committee. The membership committee itself is appointed by the executive board and approved by the membership and they review each applicant, it must have a minimum of 25 members, and they must also be of service and be involved in the West Side Urban Renewal area, and if the membership committee feels that they adequately fulfill their functions, then they recommend them to the full membership body for approval.

Q Could you describe briefly the scope of services that Strycker's Bay provides?

A Briefly, the scope of services would be to serve as the umbrella organization that brings associated community voice to represent the opinions in the community. It is to provide a means of expression of community opinion, it also is to inform the community and to communicate with the community about developments within the West Side Urban Renewal area.

It also serves as a forum at its meetings whereby community can express its opinion.

Q Could you describe how the council makes it decisions or takes positions as to issues?

A Well, the questions arise from a variety of

sources. Very often it is a decision of the Governmental agency which we learn about, or it may be things that are raised by the staff of Strycker's Bay Neighborhood Council, or it can be questions that are raised by delegate organizations, in which time it is generally brought to either -- to the executive board, which forms it into an agenda item and presents it at a plenary meeting.

Very frequently, most frequently, it is referred for discussion by the appropriate committees at which time a committee report is made back and there is an announcement of each issue, an agenda that is sent out prior to each plenary meeting which usually takes place on a monthly basis, and the delegate organizations have a chance to express their opinion upon which time they vote.

Q Father Farrelly, during the time you have been active in the council and particularly during the time you have had a leadership role, what types of issues have been involved in the council?

A The major issues would of course come around urban renewal. The problem of relocation, for example, would be a major problem. The number of people who have been relocated, the exercise of their right of return, maintaining a direct number, there would be questions of management of both privately-owned and City-owned buildings,

the variety of programs that come to us from the agencies to evaluate them as far as their applicability to the West Side Urban Renewal area, the concern over, for example, especially in this past year, residents and tenants in Mitchell-Lama buildings who have been faced with rising rent increases which have threatened their continuing occupancy, and issues to that sort.

We also have been very much involved in matters adjacent to the direct housing matters, education, etc.

Q During the time of your association with the council, describe how you became familiar with and knowledgeable about the relocation issue.

A Well, relocation has been a long standing problem.

When I came to the council, I had already some knowledge of the amount of relocation -- that there had been a great deal of relocation that had been carried on. For example, on 90th Street, which is directly in front of our church, when I came, the whole series of housing were being vacated one by one.

These were brownstone and tenement housing. They were being vacated and demolished in order to make way for Stephen Wise.

So when I came to the council I was very con-

cerned as to what would be involved and in going through council records and also going through records that had been furnished by the City, I discovered that there were some 6000 families relocated and, that is households relocated, and in areas such as we have talked about here, often, like 88th Street where there were a number of people who are not directly entitled to relocation benefits at that time at least, and that was in the neighborhood of 3000, in dealing -- in future dealings with the City agencies, especially the Department of Relocation, they have a fiscal file which contains between 3500 and 4000 names.

Of those some have been housed -- well, excuse me, I shouldn't say that. I am not too sure of that. But we had arrived at a commitment with the Commissioner that a process would be undertaken and many letters were sent out, these 3500 to 4000 letters were sent out, 800 were returned addressees unknown , there was 150 that indicated interest and also some 2100 that were not accounted for.

It always seems that the relocation active load varies between 700 and 800.

Q The so-called active load, what is that figure presently to the best of your knowledge?

A To the best of my knowledge it is about 700,

750.

Q And what is in your estimation the number of persons or families who are discloated from the area who have not yet been provided with housing in the area, housing in the area?

A I'd say on that particular work load it is in the neighborhood of 500 families. That is the one that is presently active and registered.

Q Would you describe to the Court how this number, the active work load has changed over the years that you have been involved with the council?

A I am not too sure of your question.

Q Has the number remained constant, or diminished, or how would you describe it?

A Naturally in the time I have been there houses have opened and relocation, the relocation, relocatees have been the principal source for tenanting these houses, so the figure does drop at times, but then from this list that we have, for example, this fiscal file, we would find that it seems to get back up again into the areas between seven and 800, so it does fluctuate, yes. But it maintains itself in that area.

Q Father Farrelly, could you describe what efforts the City has taken during the time that you have

been involved with the issue of relocation to reach families and individuals who are dislocated from the area and whose whereabouts is unknown?

A I mentioned that -- I am trying to think of the time -- about 1972 there was an effort reminding people of their right to return to the West Side renewal area, of their rights to housing because they had been displaced.

At that time 800 addressees, letters were returned, addressee unknown. In reference to them there was to be a searching procedure set up whereby through the board of education and school system, through utility companies, there was to be a search made for these families to determine if they could now find them and get a correct address.

As to the 2100, I don't know of any effort that was made.

And as far as the searching process, I don't believe -- I know that was never implemented as well. Strycker's Bay did have a mailing of up to 400 families in which we did have some comeback and I am sorry, I don't remember the number, so we could prepare them for entry into the urban renewal area when a building would open.

Q Would you describe what recommendations the council has made as to efforts to reach individuals and

families which it did not take?

A We have recommended an increase of staff to deal with people who do not live within the urban renewal area in the holding sites, we always felt that was an imbalanced thing because they have the greater part of their staff dedicated to the smaller number, and the larger number of off-site people, people who were living outside the urban renewal area, but were relocatees, was a smaller number, we recommended greater effort in that direction, and also this mailing and advertising, advertising in the media to inform people of their rights.

Q I think these terms have come up before, but just to make sure it is clarified, what do you mean by the term "holding site"?

A That is one of the buildings scheduled for demolition and rehabilitation but the time has not yet come for reconstruction of those sites.

Q When you use the term "off-site" you mean outside the urban renewal area, is that correct?

A Right, outside of that 20 square block area.

Q So is it correct we often use sites in two different respects, we say Site 30 in one sense and when we say off-site, that means in the area, is that correct?

A That's correct.

Q Were membership meetings of the council held to discuss and decide on the issue of whether Site 30 should be designated for public housing?

A Yes.

Q How many meetings were held?

A Well, the plenary meetings, the larger meetings of Strycker's Bay Neighborhood Council, are monthly, and it was mostly discussed between January of 1971 and October of '71. In addition to that, there would be committee meetings,housing committee meetings, and I am sorry, I just could not give you a number on that, and there would be a great number of community meetings in which we participated and community planning board meetings which we would have participated in.

Q Could you describe generally the issues that were debated with reference to Site 30 and what was said to the extent of what was important towards the resolution of that issue before the council?

A Well, Site 30, as it stood, previous to demolition, contained 40 units of housing, which is for the most part large apartments. The residents there, which were a combination of squatters and relocatees, expressed the desire that these buildings be rehabilitated, and so

the initial question that came before the council was whether these buildings should be demolished or whether they should be saved as a resource for relocation and that these buildings be maintained as they were, but rehabilitated.

And so a great deal of discussion went around whether these buildings could be protected as relocation sources, a great deal of discussion to guarantee priority of the relocatee, a great deal of discussion as to the viability and feasibility of rehabilitation, and finally, the issue of turnkey public housing came up, and initially in Strycker's Bay, the movement was to maintain those buildings and to rehab them, but by October of 1971, the question of which would provide the greatest benefit for relocation, and it was taking buildings that in the judgment of membership were not feasible for rehabilitation, but not only that, but they would only supply 40 units where 160 units that would come through turnkey public housing for low income relocatees will be of greater benefit, and I think on that -- that was the basis of discussion.

Q What was the date of the meeting on which the council made its decision?

A October of '71.

MR. DOUW: May I have these two items marked

for identification.

xxx

(Defendants' Exhibits AF and AG were marked for identification.)

Q Father Farrelly, I show you Defendants' Exhibit AF marked for identification and ask you if this was the announcement of the meeting in October of 1971 in which the issue of Site 30 was on the agenda.

A Yes.

MR. DOUW: I offer it into evidence.

THE COURT: Show it to counsel.

MR.MORRIS: Your Honor, I will object to this on the ground first that I didn't receive it in time to look at it in advance, and secondly, the admonition of the Court which I obyed was that when exhibits of this sort are to be produced in the course of this trial, the testimony should be brought in through the testimony of the ~~wintess~~ witness and only in the event that there is a challenge to the veracity of the witness would an exhibit be introduced as this one is purported to be.

THE COURT: I was thinking the same thing. In the meantime they are marked for identification. You can discuss it with counsel at your leisure when you get a chance and then decide which you want to put in, and then you might as well show him the other one and have that

marked for identification.

Q The second item, Father Farrelly, is Defendants' Exhibit AG marked for identification, and I ask you if these are the minutes of the October 1971 meeting that we are speaking of.

A Yes.

MR. DOUW: I offer that also into evidence, your Honor. I will leave it to Mr. Morris for a full examination.

THE COURT: That's right.

Q Father Farrelly, on Defendants' Exhibit AG marked for identification, was there a list attached to that exhibit which shows the attendance of a meeting in which the issue of Site 30 was decided?

A Yes.

Q And was the CONTINUE organization represented at that meeting?

A CONTINUE is not a delegate organization to Strycker's Bay Neighborhood Council. However, many people who -- a number of people who also belong to the organization CONTINUE --

THE COURT: Were present?

THE WITNESS: Were present.

Q And who were those individuals?

A I see here, for example, Wayne Ewen was listed as CONTINUE.

I see somebody here from Li'l Old New York Fritz Levy.

One of the plaintiffs inthe case, Roland Karlan, from 84th Street Park Block Association.

THE COURT: Well, I think that's enough on that point. I don't get much out of it anyway.

Q The final vote on that issue, is that reflected in those minutes?

A It was a unanimous vote.

Q Consent to the Council's decision to support Site 30 as multiple housing, could you describe briefly the council's role in the implementation of construction on Site 30?

A Well, delegates and members of the council and especially members of the executive board had a long struggle after that in the sense that it was their obligation then to present the decision of the council and the reasons for its decision to Community Planning Board No. 7, to City Planning Commissioner --

THE COURT: A short recess.

(Recess.)

THE COURT: Would you read the answer?

(Answer read.)

A To the City Planning Commissioner and the Board of Estimate.

And we were involved in a number of hearings of theBoard of Estimate, I am not sure if there were two or three. The project was finally approved in November of 1971, and upon approval we learned that all the construction funds of the New York City Housing Authority had been expended and that we would have to wait for a new fiscal year, and almost despairingly we reported this back, but in the meantime we learned that there was such a thing as residual funds, funds within the HUD region that had not been expended and were applicable to projects such as Site 30, and so we had a long, long series of correspondence and meetings with officials of HUD, with Administrator Maylott and finally with support of our legislators and everything else, we were able to get funds designated, residual funds designated to Site 30 and these are the funds that are still there today.

Tk 4

Take 5pm

Q Father, as you know, there has been testimony about squatters coming into the area and occupying empty city owned buildings.

Do you have personal knowledge of these events?

A I do.

Q What is that personal involvement that you have?

A Well, my first knowledge of squatters was one day having a little -- it wasn't quite a midnight snack but it was a bedtime snack. I heard commotion. It was a Sunday morning and I heard a great deal of commotion. I looked out our window which is on -- it's between 90th and 89th Street, and I saw people occupying what I had believed to be an empty building.

Q Would you give a date for the time you are speaking of, Father?

A The best I could say would be spring, probably late March or early April of 1970.

And I was told there were people who had moved into the building. I went around to find out what had happened and there were many police there present to evict the people, and I asked -- since I was not familiar with any squatter activity at the time -- what was going on. I was informed that the people had entered the

building illegally and that there were orders to have them evicted immediately.

I asked who had issued the orders and they told me that it came from Commissioner Rawlins, who was at that time, I believe, acting Commissioner of Relocation. I asked who was the representative from the Department of Relocation, and there was none. Since it seemed like there would be a major confrontation and it seemed like it had great potentiality for becoming violent I managed to talk to the officer who was in charge at that time and we were able to communicate with the Commissioner, who did come to that site, and he negotiated with the people and they were allowed to stay on site.

Another event that came up early in that time, was a funeral of a young boy. His name was Jimmy Santos. He and his family lived in an old building in which there had been some type of heating system that had been abandoned but apparently not sealed, and the family was asphyxiated and Jimmy died and the rest of the family survived although they were hospitalized. And together with other people in the community that had become known as operation move-in, we came down to the Housing and Development Administration site office on Columbus Avenue and demanded that they be housed. And

since it was an emergency situation, the housing condition was deplorable, there was no lighting in most of the rooms, there was no ventilation in most of the rooms, and because of the poor conditions of the rooms that asphxiation became possible, and it was agreed that they were given an apartment on West 90th Street.

Q Do you have personal knowledge of circumstances that led the squatters into the area?

A Well, subsequently when they began to move in, I know that they made enormous efforts to repair --

Q I meant prior to their moving in. Are you familiar with their circumstances in general from personal knowledge?

A Personally, I am not aware other than the Santos case, where I did go to the apartment and visit, but there was a procedure set up at that time when the number of squatters had begun to be known, and the condition was set up by Commissioner Rawlins at that time that if they did truly come from overoccupied or substandard housing, that would be certified, at which time they could be given a rent agreement, and the figure came out to about 180 families were from that type of situation.

Q Has Stryckler's Bay taken a position with respect

to the squatter families?

A Strycker's Bay's position is that the rights of the people relocated from the West Side Urban Renewal area are the ones to be upheld and honored, and in the event that there is housing in excess of relocation, that the squatters could be offered housing.

MR. DOUW: May I have a moment?

THE COURT: Yes.

(Pause)

Q Just one question, Father.

Your involvement in the squatter incident in March or April, 1970, exactly where was that located, what part of the Urban Renewal area was it located?

A It was located on 89th Street between Amsterdam and Columbus Avenue. I guess it would be Site 34. I am not sure if that goes right straight through from block to block.

MR. DOUW: Thank you.

THE COURT: Mr. Land, something occur to you?

MR. LAND: Just a moment, your Honor.

(Pause)

MR. LAND: No questions.

THE COURT: Mr. Liner?

MR. LINER: No questions.

THE COURT: We will have a recess. How much time will you need ?

MR. MORRIS: Two questions. It will only take a couple of minutes.

CROSS-EXAMINATION

BY MR. MORRIS:

Q Were the squatters legal site relocatees or strangers to the area?

A Both.

Q Can you give us a breakdown of how many there were in each category?

A I cannot, no.

Q When you gave a figure of 180 before of squatter families, is that the total number of squatters that have moved on the site according to the Strycker's Bay record?

A The 180 were people who were squatter families whose conditions in their former places of occupancy, their former housing, was delcared and judged to be either overcrowded or substandard.

Q How many squatter families were there all together?

A At that time I believe around 200. I really am not sure.

Q How many squatter families are there on the site at the present time?

A A similar number.

Q About 200?

A Yes.

Q And have any of the squatter families been moved off the site at all other than those removed from Site 30 who might have been squatters?

A I am not aware, to be honest with you, Mr. Morris.

Q And Strycker's Bay has no records to that effect?

A I cannot say. I do not know of families -- I have known families that have been moved within the West Side Urban Renewal area. I really do not know of families that have been moved outside.

Q Does Strycker's Bay have any record of the number of welfare families who are in the West Side Urban Renewal area in excess of the 30 percent?

A No. We were also told that that was privileged information, that we were unable to have it.

Q You don't have that information?

A No.

MR. MORRIS: That's all.

MR. LAND: One question.

XXX

BY MR. LAND:

Q You testified about the unfortunate condition of the building which led to the death of a youngster. Has the city improved the living conditions of the squatters' building, to your knowledge?

A To my knowledge, most of the improvement was done by the squatter families themselves initially, and only subsequently had the city entered in to do some work within the buildings and repairing of necessary systems.

Q And most of the buildings, do they not have adequate plumbing, electricity, heat, light and ventilation?

A Most of the buildings do have the basic necessities, not always in working condition. There is a great deal of problem with management of city owned buildings in general, and there has been a great deal of negligent, paint missing, boiler breakdowns, hot water failure, sometimes electrical failures. There have been some fires and they are not well maintained.

Q Has there been a net improvement over and above the condition of the buildings when the squatters first moved in?

A That would vary, Mr. Land.

MR. LAND: Thank you.

THE COURT: All right. Anything else?

MR. DOUW: No, your Honor.

THE COURT: You may step down.

(Witness excused)

THE COURT: Have you got another witness?

MR. DOUW: We do.

THE COURT: We will take a very short recess. Is this a long witness?

MR. DOUW: No, I don't believe so, your Honor.

THE COURT: I am just asking so I will know what to say to my office. You think she will take more than a half hour?

MR. DOUW: I believe so.

THE COURT: See if you can't come to the real substance of her testimony right head on without too many preliminaries.

A short recess, gentlemen. Get ready.

(Recess)

end take

K A R E N J O R G E N S E N, called as a witness, being first duly sworn, testified as follows:

THE COURT: I notice that you have been inthe courtroom and you noticed, did you not, that I insist on yes or no wherere you possibly can. I have a general familiarity with the problems here and I don't need to be led and to have you people put your fingers in my mouth and tell me 2 and 2 makes 4. I have been around, too. Just come right to the point that is needed and we will get through and we will have the essence of what you have to say.

All right.

DIRECT EXAMINATION

BY MR. DOUW:

Q Miss Jorgensen, where do you live?

A I live at 157 West 88th Street between Columbus and Amsterdam.

Q Is your residence an apartment?

A Yes, it is.

Q And what kind of building is your apartment?

A A browmstone.

THE COURT: That's the way to testify. Next question.

Q Is your brownstone approximately in the middle of the block?

A Approximately. It might be slightly closer to Amsterdam, but just slightly.

Q Where is your office located?

A My office--

Q Where you work?

A I work for the office of Urban Policy and Programs for the City University of New York.

Q Where is it located?

A 42nd and Fifth Avenue.

Q And what are your working hours?

A Well, generally, they usually start about 4:00 in the afternoon and will last until about 8:00, or possibly later, at night. And go later.

Q In addition to your job, do you do other work?

A Well, I do volunteer work and one of the things I do--or--yes.

Q What is the nature of your volunteer work?

A Well, one of the things I do is teach English to adults in an adult education program at St. Gregory's Church and I do that one night a week.

THE COURT: How long have you been doing that?

THE WITNESS: I have been doing that since 19-- I believe 1947.

THE COURT: All right. next question.

Q Miss Jorgensen, are you familiar with the so-called squatter buildings on that block?

A Yes.

Q Do you know where they are located?

A Right. Yes, I do.

THE COURT: That's been established. I know where.

Q Now, as to that particular block, Miss Jorgensen, can you tell the Court what you observed on that block as to the condition of garbage?

A Well, generally I think it is a pretty neat block and usually the garbage cans are all pretty well maintained, brought out to the street before hand. Sometimes when the garbage is not collected on schedule it appears that some of the tops of the cans might be opened or sometimes the contents get spewed out. But that's not every day. It might be just when the garbage is not collected on time.

Q Do you know how the garbage may be strewn out on those occasions?

A Well, I have seen--sometimes you see people who peer into garbage cans. There are people who work in the neighborhood who might be carrying shopping bags and they look in the garbage can to see if there is anything they want in there.

Q Have you observed this?

A Occasionally, but it is not frequent. I remember one night I saw a man who was on the block who looked like he was knocking a few over, but it is not an everyday occurrence.

Q All right. As to the people that you mentioned that you observed, do you know where they live or where they are from?

A Well, I would--no, I don't.

Q On this particular block or anywhere in the Urban Renewal Area, do you receive on occasion any kind of taunts, obscene remarks or any kind of remark which you find insulting or unpleasant in any way?

A Yes.

Q Would you describe those circumstances?

A Well, generally, they are not obscene, but they would be something and, like, "Hi, Honey," from somebody I don't know.

THE COURT: With what frequency, Miss Jorgensen?

THE WITNESS: Not that often; it just depends on where you are. I notice that frequently, well, the garbage men on the street, if you are walking down the street, and they are collecting garbage, they will be the ones that say, "Hi, Honey," or maybe the Con Ed men that are drilling, and you step on the corner and cross the street, and they

would say that. I don't find that obscene, but I don't like it either.

Q Now, you mentioned that you teach or tutor people at St. Gregory's. Who are your pupils?

A Presently we have a class of about five and they are really from two families; one family lives on 90th Street, West 90th; the other family lives on 88th at the end of my block.

Q Do you know if either of these individuals is from squatter families?

A Well, I assume that they are. They are from the Dominican Republic and they are fairly recent arrivals, so maybe from the last two years or one year.

Q But you don't know for a fact?

A No. I mean, they never told me they were certified--

THE COURT: Then you don't know really?

THE WITNESS: Right.

THE COURT: Next question.

Q Could you describe their appearance in terms of dress when they come to your class?

A Well, I would say that they are dressed neatly, cleanly and casually; they are not dressed in high fashion.

THE COURT: Next question.

Q Does the woman work and would you describe the basis of your knowledge as to that question?

A Well, there are two women in my class, one of them was recently laid off, the other one who lives at 88th Street is a sewing machine operator, and I know that she is working because I recently helped her fill out some union forms and an insurance death benefit form.

THE COURT: And the one who was laid off, what was her work?

THE WITNESS: Sewing machine operator also.

THE COURT: All right, next question.

Q How long have you been living on the block where you live?

A Five years, about three months.

Q Have you had the occasion to visit public housing projects in the West Side Urban Renewal Area?

A Yes.

Q Which projects have you visited?

A Stephen Wise and 589 Amsterdam.

Q Now, as to 589 Amsterdam, would you describe the occasion for your visit there and how extensive it was and what you observed?

A Okay. I belong to an organization called FISH, which is a service organization, and we were trying to

publicize our volunteer service, so we decided to leaflet some of the major public housing buildings. I went to 589 Amsterdam, and we, I an another woman, went to the top of the building by elevator and then proceeded to put leaflets under the doors of all the floors in 589, walking down the stairs as we hit each floor.

Q And what did you observe generally about the cleanliness or vandalism in the building?

A Well, I did not see any vandalism. I just noticed--I guess each floor seemed to be neat and it was uncluttered, I mean, all I saw was the outside of the doors really on each floor. I didn't get into apartments.

THE COURT: You saw nothing untoward?

THE WITNESS: No.

THE COURT: Nothing improper?

THE WITNESS: No.

Q And when was that visit that you made?

A That would have been the summer of '73 I believe. Yes.

Q As to Stephen Wise Towers, would you describe the occasion that you visited in those buildings?

A A number of occasions. I am most familiar with 133 West 90th. In November of '71 I began to tutor a woman and her sister who were from the Dominican Republic,

and I went there to their apartment approximately three times a week to tutor in English.

Q Is their apartment at Stephen Wise?

A Yes. There are four buildings in Stephen Wise. 133 West 90th is the one I am most familiar with.

THE COURT: And whenever you went to that particular building, one out of the four buildings constituting the Stephen Wise--

THE WITNESS: Right.

THE COURT: --group of buildings, did you see anything improper or offensive--

THE WITNESS: Well--

THE COURT: --especially with regard to cleanliness?

THE WITNESS: Not--I would say no. The only--occasionally there might be some trash that might collect in the front entrance, but not anything like--like a piece of paper.

THE COURT: That's a minor thing.

THE WITNESS: Okay.

THE COURT: How about the corridors?

THE WITNESS: Oh, excellent. The floor--I am most familiar with the 17th floor, but I never found any garbage on that floor. It was always--depending on what time of the

week I came--

THE COURT: And the elevator?

THE WITNESS: The elevator is a problem because it doesn't always function properly, and I have known people to get stuck, to--

THE COURT: Aside from that--

THE WITNESS: --get stuck in it.

THE COURT: Aside from that, did you notice anything about the cleanliness of the elevator?

THE WITNESS: I do know they clean it out.

THE COURT: Did you notice anything improper about it?

THE WITNESS: Maybe occasionally there would be a few pieces of paper in it.

THE COURT: Anything else?

THE WITNESS: Not really.

THE COURT: All right.

Q Did you notice anything--did you observe any vandalism in Stephen Wise during this?

A I don't know, maybe some--vandalism is to be distinguished from graffiti, right?

THE COURT: Well, yes, I should think so.

THE WITNESS: I never saw any vandalism.

THE COURT: How about graffiti?

THE WITNESS: Just on one bulletin board there.

Q Could you describe the years; tell us the years that you have been visiting Stephen Wise?

A Well, since November of 1971, and then in January of '73, until about September of '73, I used to come every day to practice the piano in this one woman's house. But I have been sort of continually going there. And in the other buildings, I visited apartments over the years in the other three buildings in Stephen Wise, but not on such a regular basis as with 133.

Q Now, Miss Jorgensen, as to the 88th Street block, there has been testimony about a great deal of--there has been testimony about noise, particularly loud music or loud parties going late at night. Could you comment on that from your experience in living on that block?

A I don't generally hear any--I face the street, but I guess my main complaints from noise would be the brownstone next to me has their stereo player right next to my apartment, and so when they have a party, I can really hear it.

THE COURT: Miss Jorgensen, in every portion of the city where they pay enormous rents as well as just barely get by, there are problems with some neighbor or two. We're talking about generally speaking. Is there

noise in your neighborhood that interferes with your well-being?

THE WITNESS: Well, I would say construction noise.

THE COURT: Well, of course. I have to put up with that, too. Everybody does. What else?

THE WITNESS: Occasionally, there will be somebody that comes along on the street with a loud transistor radio, they will be walking along and then they will go by and during the interim you might hear something, but that's--

THE COURT: How about noise going into the small hours of the morning?

THE WITNESS: No. No.

THE COURT: All right.

Q There has been testimony about on or around your block a repair shop for automobiles that have been an annoyance. Do you know what that is?

A A repair shop?

Q Yes, for automobiles or cabs?

A You mean located in a building someplace?

Q Well, located perhaps on a block or near the block.

THE COURT: Supposing there is, what is the point of that; of what value is it one way or the other?

MR. DOUW: Only if it has caused her annoyance.

THE COURT: Even if it does, there is a remedy.

But that wouldn't enter into the problems we have to cope with here, regardless of what he is doing, if it is making noise or not making noise. You have concentrated it to that particular place. We are talking about noice emenating from sources other than that. Aren't we, really?

MR. DOUW: I think that shop was part of the complaints of the residents of that block. Testimony was adduced.

THE COURT: This lady says she knows of no such general noises.

MR. DOUW: I have no further questions.

MR. LAND: Just one.

CROSS EXAMINATION

BY MR. LAND:

Q Did you ever hear a bugle player playing a bugle?

A No.

THE COURT: Please, I am not going to decide a case on whether or not she ever heard a bugle player.

MR. LAND: That was one of the major complaints we got.

THE COURT: Once in a while I like to hear a bugle player myself. I mean, it's the constancy of it.

Look, gentlemen, you don't seem to know that I know every bit of this evidence in a different frame. I have

seen it. But I can't translate that into the area with which we are concerned. I know what it means to have noises all night. I understand all that testimony that was elicited here, and I fully appreciate it.

The question is, did it happen here, and was it on a scale that comes within the condemnation that I must decide in this case. That's all.

But you haven't given me one piece of evidence that I haven't witnesses, heard, sampled and find offensive. But who cares about a single bugle note on occasion? That's not--all right. Do I make myself clear, gentlemen? None of this testimony is new to me.

MR. LAND: The only thing was there was some testimony by the other residents on behalf of plaintiff that there was a constant bugle playing to all hours of the morning.

THE COURT: This lady has said there has been nothing of noise of any kind in the small hours of the morning. And they didn't testify just as to one bugle; they said that in addition to all the other noises that went on. And I have witnessed it, I know what it is. I know exactly what they are talking about. She says she knows of no such thing. They saidthat there was this terrible invasion of privacy by the constancy of noise coming from musical

instruments with people just blowing their heads off in order to be able to make the greatest amount of noise, and that it went into the small hours of the morning. I know what that means, but I don't know whether a case has been made out on that score sufficient to warrant the Court taking action.

I don't know. I am not saying that. I am just saying that this witness has never had such a problem.

Am I right?

THE WITNESS: Well, yes.

THE COURT: Well, now, what are you trying to say, "Well, yes"?

THE WITNESS: I am saying generally I have no trouble getting to sleep at night because of loud musical noises. Occasionally, there might be some noise that pops up and disappears, but I have never been until two o'clock in the morning except for the apartment next door.

THE COURT: Did you hear what I just said?

THE WITNESS: Yes, sir.

THE COURT: Have you had such a thing; did you experience anything like that in your neighborhood?

THE WITNESS: Would you repeat yourself again, please.

THE COURT: Forget it.

THE WITNESS: Okay.

THE COURT: You said you haven't had any noises at nighttime that interfered with your sleep?

THE WITNESS: That's right.

THE COURT: Isn't that what you are saying?

THE WITNESS: Yes.

THE COURT: Except for a rare occasion, isn't that what you are saying?

THE WITNESS: Yes.

THE COURT: Your bugle. We could have been through with this five minutes ago.

Mr. Morris?

MR. MORRIS: No questions.

THE WITNESS: That's it?

THE COURT: That's it, lady.

(The witness was excused.)

THE COURT: Okay, what else have you got, five minutes' worth?

Gentlemen, we start in tomorrow at nine o'clock, and I would like you to know that we have made ourselves clear in the off-the-record discussion, and that I am counting on each one of you to condense your testimony in the light of what took place about a week ago, and not to be repetitious and to avoid the secondary and tertiary material.

You have all agreed that that would be exactly

what you think should go into the case before we close it, and I want you to bear in mind my own program. By noon tomorrow you are to tell me whether or not it would serve our common purpose to sit tomorrow evening from 7:30 to 9:30. I am prepared to do it.

I will give you a chance to get your bearings. Mr. Land doesn't ask for any sympathy, but he is laboring with a cold, and I do think he ought to go on home and take care of it because I don't want him getting sick for a double reason. First of all, because I don't like to see anybody ill, but secondly, I don't want further trouble in this case.

Now let me get through with the evidence. I want to close the case, and that's what you say you all want to do. So, tonight, there is a court order: you are going to bed and take care of that cold. But tomorrow morning, I don't care if you start at five o'clock in the morning, you get going and get your proof ready.

All right? Do we understand each other? If you have got any exception, now is the time to speak up.

MR. DOUW: Yes, your Honor. Tonight we are interviewing witnesses, and we will do our best. Our efforts are to meet the variety of things that have come up in plaintiffs' case, and we will endeavor not to have

duplicative testimony.

THE COURT: Very well.

MR. DOUW: That's what our efforts are directed to.

THE COURT: Mr. Morris, are you going to have rebuttal?

MR. MORRIS: You mean for next week?

THE COURT: Yes.

MR. MORRIS: I don't know at this time.

THE COURT: Because you understand I have already disappointed many lawyers because of what has happened here with respect to commitments I made in other matters, includin defendants who are in jail, and whose cases I have undertaken to try, and I want you to know that it is going to work a real hardship if we don't close this out completely, including Mr. Gold's testimony by the close of next Tuesday.

MR. DOUW: Your Honor, may I also say for the record two of the witnesses that Mr. Gold had prepared here we are trying to bring in this week and have examined by Mr. Land. That hasn't resulted yet, but we are working on it.

THE COURT: Fine, thank you very much.

Good night. Tomorrow morning, nine o'clock.

(Ajdournment to May 16, 1974 at 9:00 a.m.)

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
S. William Green	3282	3342	3381	3383
Sidney H. Morison	3385			
Elaine J. Schwartz	3405	3439		
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Trinity Episcopal School Corp., et al.

vs. 71 Civ. 4315

George Romney, et al.

New York, New York.
May 16, 1974 - 9:10 A.M.

(Trial resumed.)

MR. LAND: I call Dr. Kristof back to the stand to complete the cross-examination.

F R A N K S. K R I S T O F recalled.

THE COURT: Dr. Kristof, you understand, of course, you are continuing with your testimony under oath without the necessity of being resworn.

THE WITNESS: Yes, your Honor.

THE COURT: As I recall, I told you very frankly, and I say it again, that I was impressed with your testimony and I wanted you to look over the transcript of your testimony which I take it you have done.

THE WITNESS: Yes, your Honor.

THE COURT: I told you I would give you an opportunity when you returned, as you have this morning, to add anything, change anything, explain anything that has already been dealt with.

Do you wish to do so now or will you do so now?

THE WITNESS: I will, your Honor.

MR. LAND: I have a few questions.

THE COURT: I want him, however, on his own to do what I asked him to do, if you don't mind.

MR. LAND: Sure.

THE COURT: Goahead.

THE WITNESS: At your request, your Honor, I looked up facts as to which I was making estimates in my testimony and as to which I indicated I was doing from the top of my head and it is not way to conduct accurate business.

The first question that everyone was interested in was whether -- what the racial and ethnic distribution of the population was in the city, in Manhattan, in the West Side area in general and in the urban renewal area specifically. Since it is relevant for a number of portions of the discussion, so I have here data I have taken directly from the census, your Honor. I put them in the form of tables which I can leave for you as part of my testimony, if you wish.

In the City of New York, in 1970, 67.7 per cent of the population was white, 22 per cent of the population was non-white, overwhelmingly black with a very small

component, about six or seven per cent comprising Chinese, Japanese, etc.

10.3 per cent were Puerto Rican.

Now, in Manhattan, the percentage of white persons was slightly lower, 60 per cent, non-white persons 28 per cent, and Puerto Ricans 12 per cent.

In the area known as the Community Planning District No. 7, which is roughly mid-Manhattan area that we were discussing, the white population is somewhat larger.

THE COURT: You are talking about 1970?

THE WITNESS: 1970, your Honor. It was 73 per cent. The non-white population was 17 per cent and the Puerto Rican population was 10 per cent.

Finally, in the West Side Urban Renewal area proper, the white component was again just slightly larger. It was 76 per cent. The non-white component was 15 per cent and the Puerto Rican component was almost the same, 9.5 per cent.

So that the West Side Urban Renewal area is very, very similar in composition, racial and ethnic composition, to the rest of the entire mid-west side.

Now, another relevant aspect of the discussion was the number of single parent families which came under discussion.

Here in the City of New York 4.8 percent of the householders in the city were single parent families with a female head and with children under 18. That is nearly one family out of twenty. In the borough of Manhattan that proportion was slightly larger, 5.6 percent.

MR. MORRIS: What was that?

THE WITNESS: 5.6 percent.

In the Manhattan, mid-west side area, Planning District No. 7, the average was almost identical with that -- I am sorry. It was substantially larger than that of the city at large. It was 9.7. However, in the West Side Urban Renewal area the figure was very small. It was only 3 percent in 1970, just one-third -- less than a third of that of the enitre mid-west side area.

Now, the other facts on poverty families, New York City had 11.5 percent of its families classified as poverty families in the census. In Manhattan, the figure was 13 percent. In the west side -- mid-west side area it was 8.7 percent, lower than the city average, and in the West Side Urban Renewal area it was 1 percentage point less, 7.8 percent.

So it was 9 percent for the west side area and

8 percent for the West Side Urban Renewal area, rounded. So the West Side Urban Renewal area is still representative of the entire west side area in this sense.

In terms of median income, the west side area, as I testified, is more affluent than the rest of the city and that is borne out by the data on income. Median income for the City of New York in 1969 -- we are talking about '69 income because the census only reports '69 financial data since they collect the data in '70. $9,700 was the average for New York City; for the borough of Manhattan, surprisingly, it was only $9,000, $700 less. Now, for the Community Planning District No. 7, which is the mid-west side area, the figure was $11,250. That is the median income, substantially higher than both the median for the city and Manhattan itself. For the West Side Urban Renewal area, the median for the three census tracts was $12,700. That is even higher than for the area in general. So here you can see that the work that the federal funds and city and state resources that went into this area had definitely upgraded it in terms of the average income of the families living there.

Another question that came up was with respect to 1960 distribution of householders in the City of New York.

We were talking about the trend, shift, in composition of households. In 1968, if you recall the number of householders in the city was given in my monograph as 75 percent, non-white 17 percent and Puerto Rican 8 percent. This is householder distribution, slightly different than population composition because of different sizes among the different groups.

MR. MORRIS: I didn't get that figure.

THE WITNESS: 75 percent, 17 percent and 8 percent. I notice that there were fewer Puerto Rican householders in the city because their average household size is larger. They have more children. While they have in the city 10 percent of the population, only 8 percent of the households.

Now, the 1970 census showed that the figures were very similar. The white household was 73.6 percent, 1.4 percent less than in 1968, non-white household was 18.4 percent and Puerto Rican households remained at 8 percent. So that the composition in the two years was virtually unchanged, although I will say that the 1968 data were census estimates and were subject to a larger degree of error than the 1970 census figures. So we can't say that there has been no change but apparently there would have been very little change.

The final relevant fact is a document that Mr. Land asked me to look at which was a document which was submitted as an exhibit and called "Reconnaissance and Overview Housing Stabilization District Community Services" prepared by Messrs. Hart, Krivatsky and Stubee, planning consultants.

THE COURT: That is exhibit?

MR. LAND: It has not yet been marked, your Honor.

THE COURT: Please go on, sir.

THE WITNESS: This was an interesting document because it goes to one concern that the west side area over time is in the process of losing a price diversity that many people who live in the west side like and enjoy very much as a result of the rapid changes that have been occurring in that area in the period between 1960 and 1970, and the planning consultants basic concern was some steps should be taken to prevent this area from becoming an affluent predominently white enclave. The burden of their thesis rested on some estimates found in the Manhattan volume of the plan for New York City prepared by the City Planning Commission. This document was completed in 1969. Consequently, they had to make estimates of the 1970 composition of the population.

Now, the table I was requested to examine indicated that in the mid-west side area between 1960 and the estimate for 1970 that the white population had increased from 72 to 81 percent, that the black population had declined from 13 to 11 and that the Puerto Rican population had declined from 15 to 8 percent between 1960 and 1970. Those were the estimates.

In checking the census data,I found two basic facts. The first one was that the Planning Commission overestimated -- underestimated -- I am sorry -- underestimated the decline in the total population which was much more substantial in fact than the Planning Commission's estimate, and the major consequence of that was the composition of the population was not terribly different in 1970 than in 1960 because of the substantial numerical loss of white population. As a consequence, the proportion of white population remained at 73 percent compared with 1960's 72 percent.

The black population actually increased from 13 percent to 17 percent in the mid-west side area in the ten years between '60 and '70, and the Puerto Rican population did in fact decline from 15 percent to 10 percent. But if we take the minority population in combination, they represented 28 percent of the population

in 1960 and 27 percent in 1970. So the basic argument of the consultants of steps necessary to hault the change in the west side area premised on estimated population is not sustained in fact to the extent that they relied on those estimates because we see that the composition, the racial and ethnic composition of the west side area in general remained virtually constant between 1960 and 1970. But there was a substantial thinning out of population and in that thinning out of population we did lose a large number of white population which kept their proportions virtually identical with 1960.

Those, your Honor, are the three sets of facts that I was requested by yourself and by counsel for the defense to examine and I am ready to answer any other questions.

THE COURT: Dr. Kristof, we are all indebted to you for doing your homework and you have clarified a great deal in what you have said this morning. It has an enormous amount of meaning.

MR. LAND: Just a few questions.

CONTINUED CROSS EXAMINATION

BY MR. LAND:

Q Doctor, you went over the statistics as to

XXX

percentage makeup of the population, figures on single parent families with more than one minor child and mean income statistics.

Are those three factors three of the major factors in measuring the stability of a neighborhood?

A Yes, they are three of the major factors.

Q What is the 1970 population of the mid-west side area? You mentioned there was a thinning out, a decrease.

A Yes. In 1970 it was 212,000. If you recall, I guessed 180 to 200,000. It was slightly lower.

Q What was it in 1960?

A In 1960 it was 254,000.

Q Do you attribute the loss of population, raw numbers, to the demolition and renovation of a number of the dwelling units within that area during that ten year period?

A Yes, two causes, the thinning out of the overcrowding right through the whole area, not just the West Side Urban Renewal area, the whole area. I remarked in my area that Riverside Drive was experiencing its own renaissance with a reconversion of single room occupancy back to apartments. That is outside the Urban Renewal area.

MR. LAND: No further questions.

MR. DOUW: No questions.

MR. LINER: No questions.

THE COURT: Mr. Morris?

MR. MORRIS: I would like to introduce into evidence the schedules.

THE COURT: I intended to do that. Not only that, but I also would like to have marked for identification, which you are not going to offer in evidence, the graph Mr. Land turned over to Dr. Kristof concerning which Dr. Kristof offered testimony.

MR. LAND: They are part of the documents which we would like to introduce into evidence at this point.

The two volume study --

THE COURT: Unless there is no contest on it. I don't see the need of burdening the record. That is up to you. I should think the paper that you turned over to the doctor to study and concerning which he gave testimony, I think that you ought to put into evidence but why load the record with a lot of surplusage that just means expense to you people and is of very little value to us. It's up to you.

MR. LAND: Okay. This is page 7.

Mark this as an exhibit, please.

THE COURT: You are offering that?

MR. LAND: Yes.

THE COURT: Why not avoid an extra step. It is being offered in evidence and that I take it is an exact copy of what you turned over to Dr. Kristof?

MR. LAND: Yes.

THE WITNESS: As a matter of fact, your Honor, it contains my notes.

THE COURT: That is all the more helpful.

MR. DOUW: Could I give a little consideration to your suggestion as to the whole document itself?

THE COURT: Sure.

MR. DOUW: I can let you know later in the day.

THE COURT: We don't have to do it right now. When you want to bring up this or any document let me know.

(Defendants' Exhibit AH was received in evidence)

THE COURT: That goes into evidence, there being no objection.

Then, doctor, you had some notes that you said you had made that you were willing to part with. Would

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you be good enough to let us have them?

THE WITNESS: Yes, I would.

THE COURT: The doctor's notes, would you care to offer them in evidence? Who called the doctor? Whose witness is he?

MR. MORRIS: He is my witness originally.

THE COURT: Do you offer them?

MR. MORRIS: Yes, I offer the notes and the schedules annexed to the notes.

MR. LAND: Aren't they in the record through his testimony.

THE COURT: Yes, but maybe not completely. I would like to have the benefit of every scrap the doctor testified to.

THE WITNESS: I gave the high points.

THE COURT: What harm is there?

MR. LAND: Could I read it before it goes in evidence?

THE COURT: Sure you can read it. He testified about it.

BY MR. LAND:

Q As to these schedules, did you get your figures for your three statistical comments from the community planning handbook?

A Yes, I did, because those are census tabulations. I checked them against the census proper, the public census, and they are consistent.

MR. LAND: We would like to offer in evidence this Community Planning Handbook.

THE COURT: You have had a great deal of reference to it.

MR. LAND: Yes, tremendous factual data.

THE COURT: Any objection to that by anybody?

MR. MORRIS: No objection.

MR. LAND: That will clear up any possible concern with the doctor's own summaries of the figures. So we offer those in evidence.

THE COURT: Take it slowly.

MR. MORRIS: Which exhibit is which?

(Defendants' Exhibit AI received in evidence)

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MR. LAND: Being the Community Planning Handbook containing census facts and figures.

THE COURT: Fine.

MR. LAND: Doctor, do you want me to make xeroxes of these?

THE WITNESS: I have xeroxes I can give to you right now.

MR. LAND: Good.

THE COURT: Those are being offered, aren't they?

MR. LAND: Yes. Do you have copies for your own use?

THE WITNESS: Yes.

MR. LAND: We offer into evidence three tables prepared by Dr. Kristof --

MR. MORRIS: Just a moment. First of all, I thought I was offering those.

THE COURT: It makes no difference.

MR. MORRIS: Secondly, I think the statement to which these are an exhibit should be introduced as a single exhibit, the statement Mr. Land is looking at. I think it should be my exhibit.

THE COURT: Fine.

Gentlemen, to save time, we are going to receive it. You examine it. If you find any fault with it or any other exhibit, you always have the opportunity to move to strike.

MR. LAND: We offer as one exhibit --

MR. MORRIS: Are you offering it?

MR. LAND: Mr. Morris, for heaven's sake.

MR. MORRIS: I think it should be my exhibit,

your Honor.

THE COURT: It doesn't make any difference.

MR. LAND: I think I might be able to do it more succinctly and accurately.

THE COURT: Let him do it. He is older.

MR. MORRIS: Your Honor, at this time I offer in evidence the statement and the schedules annexed to the statement of Frank S. Kristof of May 17, 1974.

THE COURT: Received.

(Plaintiffs' Exhibit 70 received in evidence)

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THE COURT: That is quite a compliment to you, Dr. Kristof, when lawyers fight as to who will offer what you introduced in your testimony. We don't often have that.

What else?

I think we have covered everything, haven't we?

THE WITNESS: Yes.

THE COURT: Anything else of the doctor?

MR.LAND: No, your Honor.

THE COURT: Thank you, Dr. Kristof.

(Witness excused)

THE COURT: Dr. Kristof, are you planning to

leave the city for any reason whatever in the next month or so? Are you going on teaching until the end of June?

DR. KRISTOF: I am going to Europe about the 5th of June.

THE COURT: About how long will you be gone?

DR. KRISTOF: Three and a half weeks.

THE COURT: You are leaving when, June what?

DR. KRISTOF: June 5th.

THE COURT: I hope you have a very fine trip, doctor.

DR. KRISTOF: Thank you, sir.

THE COURT: You go on teaching your students and influencing those that don't measure up to quality, encourage those that do. Anybody that explains things as clearly as you do, if they don't understand them, leave them behind.

DR. KRISTOF: Thank you, sir.

THE COURT: We don't need them in government. I will tell you that. A lot of people you turn out go into government, you know.

DR. KRISTOF: All my planning students I find in the highest levels of government.

THE COURT: You see, let it be quality. Let's all say in the future that is one of Dr. Kristof's students.

DR. KRISTOF: Thank you.

MR. DOUW: Your Honor, I call to the stand Dr. Henry J. Browne.

THE COURT: Come on, Dr. Browne.

H E N R Y J. B R O W N E, called as a witness by the defendant Strycker's Bay, being first duly sworn, testified as follows:

THE COURT: Dr. Browne, I say this to all witnesses with a fair degree of success on the whole.

Will you remember that while I am sure you are full of your subject, having undoubtedly, I take it, spent a great deal of time in the matter and you feel you want to bounce off a great deal of it, remember you are in a courtroom and I am duty-bound to control the ship and I am plagued by the higher Court if I do not observe the rules, and properly so. It means, then, that even though you want to tell a lot of things, you can only confine your testimony, your sworn testimony, to the orbit of the question. You may not concede that. Wherever thre is a yes or no answer that is capable to a question, content yourself with that even though you would like to say so much more. Will you remember that?

THE WITNESS: Thank you.

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DIRECT EXAMINATION

BY MR. DOUW:

Q Dr. Browne, what is your present occupation?

A I am asscciate professor of sociology in the university college, Rutgers University. I teach in New Brunswick and in Newark, one semester in New Brunswick, the second in Newark. I am also active as a member of the Catholic Committee on Urban Ministry, which is headquartered at Notre Dame University, which is a kind of network of people concerned with city problems from a church point of view or from a poor people's point of view, and we meet four or five times a year to discuss various problems. I have been active for eight years now. These are my two main involvements at this point in my life.

Q And your field of specialization is sociology, is it?

A Yes.

Q Would you care to elaborate within that general field more particularly your specializiation?

A I have a Ph.D from the Catholic University of America, 1949. I did my doctoral work on the relationship between the labor movement and the church. I majored in

social history and political science. I stayed on at Catholic University until 1956, became associate professor in the history department and also the founder of the Department of Archives and Manuscripts which was a research facility, became the secretary of the National Society of American Archivists, was active with founding a group called The Labor Historians. I came to New York at the behest of Cardinal Spellman -- back to New York. I was ordained in 1944 for the diocese of New York after finishing my theology studies at St. Joseph Seminary in Yonkers, and therefore was at the beck and call of Cardinal Spellman at that point.

Q You are also a priest, are you not?

A Yes, I am an ordained Catholic priest in the archdiocese of New York. I came to New York to teach at Cathedral College and St. Joseph's Seminary. That was basically from '56 to 1958. My presence on the west side came about indirectly through that because the Cathedral College was located on the west side.

Q Could you explain your activities at the present day in the field of city planning and urban renewal?

A I am not a professional in city planning at all. My contact with the whole question of urban renewal

came about as one very involved in the West Side Urban Renewal. As a consequence of this I was at seminars and gave talks across the country from Banfield and MIT out to the University of Oregon, Georgetown. I have been all over the place in the course of about ten to twelve years on the west side with this sort of practical input and I have published maybe ten or so popular articles on urban renewal and community involvement in urban renewal.

Q Were you assigned to St. Gregory's as a priest?

A Yes.

Q What years?

A I was distinguished that I was assigned there in residence, but I did weekend work, as we say, in the cathedral jargon, and I was full-time teaching at Cathedral College which was at 87th Street and West Side Avenue. St. Gregory's is at West 90th Street. I was given a room on the roof and was to be over at the school every day as a teacher.

Q What years were you at St. Gregory's?

A I came there in February of '59 and remained in residence until '68 as a resident, in quotes, and became the pastor from '68 to '70.

Q During those same years, were you also directly

involved with the West Side Urban Renewal area and plan?

A Yes.

Q Could you describe the positions you held during those years which related to the West Side Urban Renewal area and its development?

A Well, in the summer of '59 I was assigned by the then pastor to be a delegate from St. Gregory's parish to a provisional counsel of organizations in the West Side Urban Renewal area. It met, as I recall, in the Walden School, and there were about 22 or so organizations represented. This became the nucleus of what became the Strycker's Bay Neighborhood Council. In November-December of '59, after the hearings -- the preliminary hearings of that fall, I think October, we formally organized a neighborhood counsel. I did the research which dug up the name Strycker's Bay from the 19th Century stuff in the New York Historical Society, and we were off and running as a typical community organization of organizations, but specifically to fulfill the citizen's participation aspects required by the Urban Renewal legislation, the so-called Point 7 of the workable program for Urban Renewal.

In the organization I was first chairman of the housing committee and gave, in October, '59, the

organization's statement on the preliminary plan at City Hall, my premier performance of many at City Hall.

And then in about the third year of the organization I became its president. I remained its president, therefore, from about '61 to '63 or '64. I stepped down for a year and came back as president until I would estimate '68, when the burdens of the pastorate again indicated I should step down as president of the council.

Q After 1968, did you continue to remain involved in the West Side Urban Renewal area and the plan?

A Yes, to a lesser degree, but nonetheless I was voted in as founding president and as a permanent mamber of the executive committee and have kept in at least weekly contact, have not participated in as many meetings with housing administrators as I had in the past since Doris Rosenblum and Father Thomas Farrelly took over as president, but I have been a kind of great eminence without having that kind of influence. I don't mean it that way. I have been a kind of consultant they bounce their problems off and it's good for me academically to have a touch with what I am trying to teach because I am teaching community change, I am teaching urban sociology and I find that it gives reality to some of the

stuff in the textbooks and the articles which they don't usually have. I teach ethnic minorities. The whole sphere of my academic knowledge is fed by knowing community problems, changes, planning, et cetera.

Q Have you also been connected with sponsoring housing in the West Side Urban Renewal area?

A Yes. One of the --

Q Would you describe that? Would you describe your involvement, please?

A One of the immediate problems of the Urban Renewal plan was the middle income housing and how was it to be -- and what was it to be. There had come into existence, of course, the Mitchell-Lama program. I had learned, I guess, as a university professor to have a certain respect for expertise and almost immediately on my involvement in the neighborhood and made housing chairman I consulted with Joseph McMurray, whom I had known in Washington as the executive assistant to Senator Wagner, then former Senator Wagner, and who had been the City Housing Authority chairman, who had been under Governor Harriman the State Housing Commissioner.

As an old friend -- I only found out later he wrote the Mitchell-Lama law -- I turned to him as a cleric to a lay expert to find out, and I walked the

beach at Rockaway with him. I found out he later gave President Kennedy his housing program. So I felt I was in good hands. And it was really with Mr. McMurray's tutoring and encouragement that within the housing committee of Strycker's Bay we began to study what did the Mitchell-Lama program have as a potential. It was rather new at the time. I would guess because of my clerical state I was able to pick the brains of many people about housing besides Mr. McMurray -- Roger Shaeffer, who had been with the United Housing Foundation, George Brown of Brown & Guenther, who had done Mitchell-Lamas. I can tick off maybe ten people, Paul O'Keefe, who was a prominent Catholic layman who was Deputy Mayor and had been in the real estate field. Many of these people were open to a somewhat new kind of community cleric priest begging involved in housing.

THE COURT: May I interrupt you.

Paul O'Keefe, he was, was he not, the partner of Commissioner Felt?

THE WITNESS: Or at least was an officer in the Felt Company.

Mr. Felt himself, I think we used to discuss Moses and Maimonides. He knew more about it than I did.

THE COURT: He was a profound man.

THE WITNESS: He encouraged a young man like Roger Schaefer to come with a neighborhood group to sort of instruct them as to what you might do with these plans.

If people were going to remain in the neighborhood they were either going to have to go into public housing or into a lower middle income Mitchell-Lama, and both of these presented problems to the particular target population of the neighborhood. Again, particularly the background of the redevelopment of the area above 97th Street where the urban renewal FHA housing had come out too expensively for the people who had lived there and the public housing had come out too low in the rental schedules for the people who lived there.

As a result that whole neighborhood, 97th to

100th Street -- and I remember Father Raftery at Holy Name parish summing it up -- before the renewal there were 400 children from those couple of blocks at the school and after the renewal there was one, the child of the superintendent.

I got involved in the execution of a Mitchell-Lama, a housing committee of about 20 people studied and went to experts. We traveled around, "How do you do it?" etc., and four of us incorporated into the Strycker's Bay Housing Corporation.

The attorney was Selik Polayes, husband of one of the officers in the Strycker's Bay Council and just happened to incorporate us, and from there on became a housing lawyer -- with what degree of expertise I leave to others, but he has been active in brownstone rehab and so forth. In other words,we started a neighborhood company to do a Mitchell-Lama. I think many professionals thought we were crazy.

We were fanatically committed to doing it at the minimal carrying charge and down payment.

We built on Site 17 from 1960 to '67, I believe.

Q Do you know where Site 17 is located?

A 93rd, 94th, east side of Columbus.

This gave me a very practical involvement in

day-to-day -- we had literally hundreds of meetings. At that time the whole board of housing redevelopment, first the urban renewal board and then the Housing Redevelopment would sit down and discuss hampers in the bathroom and how many electrical outlets in the wall. People who have been through this Mitchell-Lama program know what a process it is, it is drawn out.

The same housing corporation became the sponsor on Site 36 at 90th Street and the east side of Columbus Avenue of what was called "Turin House under the 221D Program," which I believe, opened in '71.

I had withdrawn from the corporation as a member of the board for reasons which are perhaps related to this kind of case in the sense that I disagreed violently with my partners about the amount of public housing being made available in the West Side Urban renewal area.

We had disagreed way back in '58. We continued to work together but the final point, besides that moving out of the neighborhood, I felt I should get off the board.

The 221D3 cooperative, under the Federal program, as I understand it, was one of the few, if not the only high-rise co-op, done in the metropolitan area under that program, and it was a program which we kind of -- I remember dozens

of conferences of do-gooders, social workers, and religious leaders discussing this as the answer to the public housing dilemma, and we were going to have a co-op for lower income people.

As in every one of these housing programs that involved this combination of the private and the public sector, it never comes out on target and I could not even tell you the carrying charges, but I suspect they are over $30 a room.

Q Was Site 36 originally designated for public housing?

A Yes.

Q Dr.Browne, when you first arrived in 1959 in the area, would you describe how you first came to learn of plans for the area and got involved in that?

A My first recollection is a meeting in the auditorium of St.Gregory's which would have been one of the many meetings held in the neighborhood to acquaint the residents with the urban renewal board plans for the neighborhood. They were kind of presentations of the sort of stuff you saw in that very expensive booklet on the preliminary plan, the pretty pictures and Alternate A and B, and so forth.

It was an auditorium full of people and some

were a little more knowledgeable than others and there was, of course, for the people at the northern end of the area a memory of what had happened at Park West Village, but in our area it was a little more remote.

You have to live up there to realize that 93rd Street is like the demilitarized zone. You come from 96th you want to live in 96th when it is renewed and if you come from 90th you want to live at 90th when it is renewed.

People did begin to see 400 units of low income housing which were planned to be across the street from St. Gregory's, Stephen Wise -- between St.Gregory's and Trinity, although the beautiful plaza allows us to see each other -- this began to hit people: Where were they going to go if relocated with only 400 low income units?

We had one parishioner who knew something about real estate and coulddo long division and he began to talk and to match up the number of dislocated that had to occur with the number of housing provided for them to come back, so very early in the game we had the area priority which now might be better described as the right to return.

Immediately the disparity between that commitment, which was written into urban renewal, you have to see it again against the background of Robert Moses and

James Felt: Was the bulldozer-slum clearance; Felt came along with the new idea, selective demolition, conservation, rehabilitation community involvement and the absolute area priority.

We used to talk "area" so much that when Joseph Lyford was doing his book called "The Airtight Cage," which was published about '66, on theWest Side -- and it is a very interesting paperback book on the whole area -- he wanted to call the book, "The Area," because he hung around Strycker's Bay for five years, took miles and miles of tape recordings, reams and reams of notes, and all he ever heard us talking about was, people would come into the office, "Do you live in the area?"

"When did you move out of the area?"

"Do you want to exercise your area priority?"

He was so impressed with this term and with our designations, "out of the community," "not of the neighborhood" -- but the 20-square blocks became your ticket to new housing. If you were there first it was a title vesting which was February, January -- the end of the month of January of '63, or if you were there -- we finally got them to admit when the plan was passed in June of '62, if you could prove that, your rent receipts, if you ever paid rent to the city, you were in, you had a priority.

I think the sacredness of this priority is shown in the fact that they still have a list of people claiming it.

MR. MORRIS: I think the Reverend is going somewhat far afield in his description of this situation.

THE COURT: He impresses me as not being content with synopsis. He likes to embellish, and he is right. He is instructive.

We will take some more of it but not too much. It is informative to the extent of helping me resolve the challenge that I have from this. I cannot afford the luxury of this phase of developing it too much.

So forego it except for a couple of more words by the witness and then go to something that I have to have on the record.

Q Dr. Browne, complete what you were saaying, please.

THE COURT: What would you say were the uppermost challenges that enlisted your fervor and the greatest concentration of your thought and energy? How would you sum that up as of that period?

THE WITNESS: My background had been one of interest insuch things as labor schools, people organizing. I was on the peripheral end of that movement back in my

high school college days. I saw in the plan an injust[illegible] dispersal of poor people coming at the end of a great deal of dispersal of poor people in that there were not going to be sufficient numbers of the kinds of housing the dislocated would be able to afford.

THE COURT: That disturbed you?

THE WITNESS: Yes.

THE COURT: That was something you wanted to address your efforts to?

THE WITNESS: Yes.

THE COURT: What else?

THE WITNESS: This was basic and I spent 10 to 11 years in a storefront office every day after school and thousands of hours of meetings with city administrators trying to see -- I think the executive board of Strycker's Bay will testify, and continually addressed itself to this problem -- that justice would be done to the people who would be dislocated.

THE COURT: That is further comment on what you have already said, isn't it?

THE WITNESS: Yes.

THE COURT: You were addressing your efforts, all that work, because you regarded as an inequity the situation that you have summed up.

THE WITNESS: Yes.

Secondary consideration was that I was interested in the community and people of various backgrounds working together, whether we could build community, build bridges, however I did not accept what was the prevailing community organization philosophy at that time --

THE COURT: To wit?

THE WITNESS: -- that everything was lovely if the leading members of the community said so. In other words the consensus -- I believe in involving the people and educating them. Every meeting I ever presided at was a lecture or a discussion group as to what means "executed rental," "area priority," "Mitchell-Lama, "capital grant," and it was an educational function. In all those years I was a bridge or translator between the planners and executors of urban renewal and the neighborhood folks who did not understand the jargan.

It was like doing the catechism from theologians to the people.

THE COURT: Very good example.

Next question.

Q What was your connection with the approval of the preliminary plan in 1959 by the Urban Renewal Board, the Board of Estimate?

THE COURT: Sum it up rather than expand.

A Briefly, I became the community negotiator with the other two prongs of concern, namely, the Borough President's office and Mr. Felt and Mr. Ratensky. I was one of about three principal spokesmen of the community that sat down -- and the Borough President's office historically had began to intervene in community renewal plans at that point in time against the background of Chelsea, which was a big fight in 1959.

Hulan Jack had started this.

We negotiated. I remember coming out of Jack's office walking over to City Hall with Mr. Felt and he took my arm and said, "There is no problem. I think we can go to 4200 middle and a thousand low income units and how will that be?"

From '59 to '62 the prevailing fight was, should it be 1000 or 2500?

There were other pressures, other committees saying there were not enough low and moderate, but we were specific and said, "How about 2500?" We were the first.

The preliminary plan was 1000. That is how that was arrived at.

Q As to the approval of the final plan in '62, were you involved in meetings with city officials?

A Yes.

Q Could you describe those meetings and keep in mind the details to the extent you remember them as to where and with whom you spoke?

A Well, it was kind of two things going. There was the neighborhood battle about the thousand versus the 2500, and then we had to hammer that out ourselves.

Again, Lyford has a chapter on this which is fairly accurate and might sum it up better to the effect that the Strycker's Bay Neighborhood Council ended up approving the thousand units, but I led a rump movement for the 2500.

I don't recall any particular meetings with city officials pushing the 2500. This was a meeting in the Borough President's office before the hearings in June in which he was trying to push me, if they went to 2500 would I then approve the plan, would I give it my benediction, which seemed to be important to him.

I said, "That depends again on how the people react."

I did get involved with the Archdiocese of New York and had a letter, drafted a letter, for the new housing coordinator of the Diocese, Monsignor Byrnes. I am known as Harry Browne and he is Harry Byrnes. It was confusing.

The Archbishop wrote a letter to Mayor Wagner.

The afternoon Wagner decided 2500 units of low income housing Mollen called me first. He said, "I am going to call the Puerto Rican group." I deduced from that that both the Archdiocese pressure and Puerto Rican pressure had some impact on making the 2500 units the official figure for low income housing.

Q Could you describe more specifically during this period leading up to the plan how you were involved in the community and your relationships to the community in the area?

A There were a couple of things happening. One was the public housing and the new PS-84 site relocation. We did a lot of watchdogging, code enforcement. There were still rooming houses.

I remember one guy dispossessed people on Christmas eve and we took him to court and beat him.

We were involved in information . The Housing Corporation opened an office to get people to sign up for co-ops and educated them as to what down payments meant. We were there every night of the week with our local druggist's wife --

THE COURT: That kind of detail doesn't help particularly.

THE WITNESS: She was on the board. It was a

real community operation.

THE COURT: Proceed.

THE WITNESS: Beyond that we had this great fight about the numbers, and the membership groups of Strycker's Bay lined up pro and con, a thousand versus the 2500, and this took a lot of our time and energy in the period between '59 and '62. Meeting after meeting, trying to work out compromises, where to locate the public housing.

Basically, property owners, small businessmen, there was an organization of them, and some of the church and school institutions, were satisfied with the thousand and let the programming forward no matter what, the number of low income, and others, the Catholic parishes, the Puerto-Ricans, the liberals, the new FDR Woodrow Wilson Reform Democrats, they were community-oriented.

In that kind of opposition alignment took place and it was a very hard fight. The 2500 approval toned things down and we went ahead and tried to be cooperative within the neighborhood, and then the fight, in a way, continued because it was: Where are you going to put the public housing.

You got from the planner's point of view a great distaste or a great strong feeling not to put it in Stage 1.

This would discourage the private developers from coming in. So from 97th to 93rd public housing was out.

When the first sponsorships were called for, there were 50 or 60 applying for eight sites, which gave some of us the feeling maybe developers are not afraid of what was the new thing, vestpocket public housing.

We were going to have single buildings of about 150 apartments on single sites scattered throughout the area. One of the first scattered vestpocket public housing was done in our area, three buildings in our area and 830 Amsterdam, which is outside the area.

The contractor moved his men and equipment around and was able to do it as if he were doing four buildings on one square block, which was the traditional pushing together of public housing.

We kind of approved that vestpocket public housing site as the way to mix economically the population of the neighborhood rather than the crude 40 buildings of 11 stories and put the poor people there and you get another slum and tear it down.

Everybody sees public housing in the cliches of a Pruett Igoe rather than our area where the scattered thing has worked.

Q I show you a copy of Plaintiffs' Exhibit 10 entitled "Urban Renewal Area," a summary of the final plan, and ask you if you know of this document.

A Yes.

THE COURT: You are familiar with it?

THE WITNESS: Yes.

THE COURT: That is the end of that.

Q Dr.Browne, could you describe for us how this booklet related to the Board of Estimate hearing in June of 1962 in the approval of the final plan?

A It was prepared and distributed --

Q That is Exhibit 10.

A Exhibit 10, to my recollection, was prepared and exhibited prior to the June '62 hearings. You can imagine, I think it was the last time the City had preliminary area plans -- you can imagine the anguish of the neighborhood between 1959 and 1962 not knowing what was going to happen. I, for example, used Woody Klein, then the crusading reporter of the World Telegram, to push for a hearing and we got a lot of coverage?

MR. MORRIS: I will object to this.

THE COURT: That kind of intimacy I would like to dismiss. That detail you can omit. That doesn't help me. I know him and he is a fine fellow.

Your last answer, somewhat extensive, was helpful. It had meat on it.

With that comment and your chance to revamp your approach to your testimony, we will take a short recess.

(Recess.)

MR. LINER: May I be excused for the rest of the morning to speak to some witnesses?

THE COURT: In so doing I take it you are content to have the record show that you would have no examination of Dr.Browne, for instance?

MR. LINER: That is correct.

THE COURT: I guess you know who is going to be called after. Who are the witnesses who are going to be called after Dr.Browne, so you could have the record show that the City would not cross-examine? Who is going to follow?

MR. DOUW: Mrs. Hess.

THE COURT:Who else?

At any rate --

MR. LINER: It will take the rest of the morning, your Honor.

THE COURT: All right.

I hope, sir, you will remember what we have all pledged to do, that is that you are going out right

now to condense testimony and not expand it.

Remember that wonderful note: "If I had more time this would have been much shorter."

Let that be your criterion.

MR. LINER: Thank you, your Honor.

(Mr. Liner left the courtroom.)

BY MR. DOUW:

Q During the recess you were able to look at Exhibit 10. Again I return to my question. Describe how this document related to the Board of Estimate hearing in 1962 and the approval of the final plan.

A My recollection is that this was distributed to the community and was the basis of the hearing. In other words, there was no elaborate booklet, as had been prepared for the preliminary plan, prepared for the final plan. There was a big technical thing amongst the professionals, but this was given out to the neighborhood and the comments on it, I remember very vividly at theBoard of Estimate, even the fact that Mayor Wagner was quite upset by the fact of an attempt to show degredation -- they showed a Puerto Rican restaurant, and blacks were used in a single room occupancy to show the squalor of the area.

Beyond that I was pictured in here talking to bankers and the play was to enact that it portrayed four

community sponsor co-ops and the commitment to the people being dislocated was clearly stated.

MR. MORRIS: Your Honor, the exhibit speaks for itself. We are getting a recital of what is in there.

THE COURT: Yes. What was the upshot of the meeting?

THE WITNESS: The approval of the 2500 units as the low income target and the plan was approved with the readjustment of this 7800 apartments which are here, from the thousand to the 2500, and the appropriate adjustment in the middle to the upper income to make it come out 7800.

THE COURT: There you are.

Q Whendid Strycker's Bay Neighborhood Council becom the ~~PAT~~ PAC group for the West Side Urban area?

A I remember the negotiations. I don't remember whenit came into legislation, but we were the .7 community participation part of the original. As we negotiated a contract with the community with relation to the end of the Housing Redevelopment Board --

Q Approximately what year was that?

A The mid-sixties. It is a matter as to when the legislation was effected. We were the prototype of the PAC group.

Q Describe the circumstances as to Strycker's

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Bay becoming the ~~PAT~~ PAC group for the area.

A The survival of the group depends on having an office and a staff of some sort.

THE COURT: Revamp your question. This is an open field for a witness like this when you say "describe the circumstances."

Suggest, even, I will allow it, until he is attacked by cross-examination; I say he is full of his subject. He knows whereof he speaks. You don't have to bother on that score any more.

What is it you want?

Q Why was Strycker's Bay approved as the ~~PAT~~ PAC group for the area?

A We were well-established at that time as the community participation wing of the whole operation.

We never achieved unanimity within the organization any more than there was within the community about the plan and the emphasis of the plan, one way or another.

We had done the watchdogging and were the neighborhood voice in the relocation process.

With people like Mr. Fried we had worked out staging and on-siting of families. We were the one organization that had been involved in not only the top level of administrative decisions but also on the day-to-day

working of the plan; we had close liaison with the site office.

We worked with the Federal overseers who were up there. So we were the natural ones -- we were the first in the city who were consulted by other neighborhoods that were going into urban renewal. There was no competition with anybody else in the neighborhood claiming to have an umbrella organization.

Q Would you describe briefly what a PAC group is and how that relates to the urban renewal process?

A Well, I don't know if I can translate the acronym. Project area Committee. It was to co ntinue and I think to push a little forward the notion that you could not have a plan or even an execution of a plan any more imposed from on high. The people affected had to participate in it. I think it was effected by the developments in OEO as to maximum feasible participation as to the people involved.

The input from the neighborhood, in the schools, advocasy planning had progressed into politically participatory democrasies and it seemed to me the group was the only way the planners and urban renewers decided you could get urban renewal no longer by on-high imposition. You must have a team effort between the community and the technicians and the politicians.

End 2

Q Now, in Stzycker's Bay's history as the ~~PAC~~ PAC group for the area, what was the fundamental goal that Strycker's Bay had during that period?

A In our first contract, we continued to be the guardian of the rights of the relocation families.

Also I think it was written in that we would begin to try to weld together a new community and to provide a forum for the various interests. We had actually worked out a kind of philosophy of a communality of interest within the sub-groups within the old and new emerging neighborhood and we would try to realistically provide a means -- monthly meetings, special committees, annual forum, etc. -- to build the new community as well as to preserve the rights and welfare of the old community and to see if we could blend them into something new.

Q Dr. Browne, you have talked of the concept of the area priority. Could you describe the means that were used in the implementation of the plan to fill the area priority commitment, as you saw it?

A The usual problem and the problem in our area was that the people being dislocated were, as I recall, 90 per cent at the $5,000 and below level, and in the hearings of June, 1962, I think I was the first one to introduce the question of income and rental and the

correlation.

Obviously, as this plan says, they were rushing ahead with the public housing to use as decanting housing, relocation housing, pour the people out of their old delapidated tenements -- in other cases not so delapidated into new public housing.

As the 2500 figure was put forward, one reason I did not accept it and others did not accept it was that 900 of those units were to be down as skewed rental. In the case of the first four co-ops the carrying charges were to be naked $18 a room. This came to a total of about 180-something. This was to be considered --

Q 180 skewed rental units?

A 180 units. This came to be considered part of the 2500.

In later analyses and later in the days of Jason Nathan, he at least -- I don't know if he ever put it in writing -- admitted that it was ridiculous to consider those 180 units part of the 2500 units because they needed down payments, and he wanted the buildings opened at $22 a room rather than $18, which we equated with low income.

We then went to a State program called capital grant, which became -- it became evident after the first

three or four buildings using it, that it had little pertinence to the relocation needs.

I couldn't give you the exact figures on it, but the first one that opened, Independence House for the elderly on Amsterdam and 94th, had some relocated elderly, dislocated and relocated back.

After that, because of the regulations and the lack of willingness in the administration of it to take welfare families, it had less and less pertinence. I understand in later middle income developments, State capital grant has been a little more useful and effective for the rehousing of relocatees.

Q Dr. Browne, excuse me for interrupting you. I would like to return to skewed rentals.

You mentioned a building where the rentals went up to $22 a month. Do you remember which house that was?

A I think it was Columbus Towers.

THE COURT: There is the answer. Next question.

Q I interrupted your answer, perhaps, on capital grant.

THE COURT: That is enough of that answer. Let's go to something else.

Q On the program of leased public housing --

When Section 23 leased public housing became

part of the tools for poor people, we greeted it with great enthusiasm as a practical answer.

Also at that point in time, I think under Mr. Nathan's administration of the Housing and Redevelopment Board, it had gone to 30 per cent in the middle income would be held for dislocated lower income families. It had none of the -- it would be administered by an agency which had a long experience with income and rental and the possibilities of using it, unlik , say, rent supplement, which was used in one building, Turin House, 221(d)(3).

We found the regulations were sometimes so tight people didn't want to spend that percentage of income for rents. But Section 23 we saw as a great possibility for carrying out the program.

Q Dr. Browne, there has been testimony here about the public housing projects at 830 Amsterdam Avenue and Douglass Addition and deHostos House.

Could you describe for us what those projects were in relation to the implementation of the plan?

A 830 Amsterdam Avenue was one of four vest pocket public housings done at the same time by the same builder. The other three were within the West Side Urban Renewal Area, 94th Street west ofColumbus, the white brick thing on 91st, and the 88th 89th and Amsterdam. Those are the

three.

830 was an occupied site. So it was never our understanding, since the absolute priority to go back to that site belonged to the families who were pushed -- who were moved off it, that it would be that much of a relocation resource, but we were promised whatever was available left over would go to relocatees for the west side.

Douglass Addition it was our understanding was for the increased large families in Douglass that were going to be -- they had the first priority there.

Hostos House we fought for. It was the old P.S. 93, I believe. It was on 93rd and Amsterdam Avenue. We got that as public housing, as a strict resource for our people.

Q Could you describe from your experience what changes were made in the plan as to the fully taxpaying housing?

A There were four amendments to the plan, which I couldn't give you any great specificity or detail on. I remember one very vividly.

There was to be a full taxpaying unit of about nine or eleven stories just west of Central Park on 93rd Street. The pressure of the block association and the

homeowners on 94th Street was such, and Strycker's Bay aided and abetted, and under Mr. Nathan again, to have that changed to the 9-G cooperative, which was a rehabilitation of the existing brown tones under a co-op and some tax abatements, etc.

It turned out that the fully taxpaying units became less and less feasible and were turned into Mitchell-Lamas, and the general thrust of the amendments to the plan were along that line, as well as relocating sites, deciding, for example, that rather than having another high rise public housing, even a vest pocket, we would take -- I am using "we" in the sense -- Mr. Mollen's administration proposed we have brownstones under public housing auspices and we were grateful for older people to have easy access without elevators, etc. That was done to the tune of a couple of hundred units of public housing.

Q Did you have any role in the question of sponsorship of the Trinity School on Site 24?

A Mr. Mollen called one day and asked --

THE COURT: I am sorry. I won't take that. Did you have a role? You either did or you didn't.

THE WITNESS: Yes.

THE COURT: I take it you did.

THE WITNESS: Yes.

THE COURT: What is your question?

I asked you before. You are not going to push it if I don't want it, Mr. Douw. I am just telling you that to amplify what we said in chambers. Don't force me to eat what I don't want to eat. You understand that?

Go on now. Do it according to what we agreed in chambers.

Q Would you describe, Dr. Brown, what your understanding was from your position about Trinity's position as a sponsor of Site 24?

A All the institutions in the neighborhood had been offered a chance to expand their facilities as part of the plan. The plan went into execution I think it was some time around '63 when the council was asked by the Housing and Redevelopment Board how we would view Trinity's institutional expansion.

The general reaction was fine, everybody else has got a chance, St. Gregory's, Waldon's School, Columbia Grammar, as long as it didn't wipe out any dwelling units.

The only other follow-up on that was at one meeting while Trinity's plans were in the works, they made a presentation at Stryker's Bay Neighborhood Council. It was Mr. Tom Galvin and the headmaster at the time. They

described their project in general terms, what the facilities would be, etc.

Q You supported -- Strycker's Bay supported the conversion of Site 4 to public housing. Would you describe the reasons?

THE COURT: That's it.

MR. MORRIS: Your Honor, the testimony is that Reverend Browne left the area in 1968. The conversion of Site 4 from middle to low income housing occurred in 1971, and I therefore question this witness' competence to testify.

THE COURT: That is something you can develop on cross.

Right now you have a question. Please, Dr. Browne, sum it up. I have been listening for weeks to testimony and this is not new. I invite your full discussion of something concerning which I am uncertain, but remember, I have been receiving an education here for many weeks now of testimony. So would you be good enough, in answer to that question that is now pending -- I will have it re-read to you -- sum it up. Give me a synopsis of it. Bang it on the head without embellishing it.

Would you read the pending question, Mr. Court Reporter.

(Question read.)

THE COURT: Would you tell us the reasons rather than describe. Tell us the reasons.

A Under Mr. Nathan's administration, it became -- it seems to me, as I recall it, the problem was the relocation of families on sites that were to be developed for middle income were not proceeding apace because basically all that was left was to put them into the 30 per cent in the new middle income which were not being developed, probably, because they were still on site.

We began then a discussion of the possibilities of other vest pocket scattered public housing. The scatter thing was important on Site 4 because there was no public housing in the first stage. It also was connected with a community just north of us who wanted a new school. So there evolved, with a great deal of haggling, the notion of putting a new school and a public housing unit over it on Site 4.

This may have taken place after I stepped down from the presidency in '68, but I was still around until '70.

MR. MORRIS: I ask that the testimony be stricken since he was not in the area. He was therefore not a participant in the activities that occurred.

THE COURT: I understand, and you may attack it further on cross.

Next question.

Q Dr. Browne, I believe there has been testimony by Father Farrelly that you had direct involvement with the squatter situation in 1970. Is that correct?

A Yes.

Q Would you describe briefly your --

THE COURT: Don't give him the word "describe." That is an open sesame. The witness really impresses me as having labored over this and it has become a cause celebre with him, and understandably so.

You have got to control your witness. You have to know that such a person is bound to be like the ancient mariner. Anybody that listens to him, he is going to talk about it.

Just the way I have. With regard to certain things in the court, I have been hammering away across the nation. I plead with judges on something that I believe in. Give me a little opening and I go to it.

So control it, will you? That is the reason they say the Judge has 20 minutes, and that is how they cut me down and I have to keep it within 20 minutes. It is tough but we all have to do it. Will you please?

BY MR. DOUW:

Q Dr. Browne, I would like to ask you briefly to tell us your understanding of why the squatter movement occurred.

A In 1970 I wrote an unpublished article on squatters. I will tell you my involvement. I can think of three instances. One Sunday morning --

THE COURT: I am sorry, Doctor.

THE WITNESS: He asked me why.

THE COURT: Exactly. That is the reason the formation of a question is extremely important. Will you come to the heart of it. What did you observe, without giving me the details, that caused you to -- in other words, you beheld a situation relating to the squatters. What did that amount to? What was it? People had moved in without authorization, I am told. Right?

THE WITNESS: Right.

THE COURT: They were living in squalid conditions, was that what you found?

THE WITNESS: No. They improved the condition.

THE COURT: They what?

THE WITNESS: They improved the conditions.

THE COURT: But they began there?

THE WITNESS: They began in empty apartments,

half empty buildings. They went in and I saw them doing floor scraping, fixing up of the toilet facilities with their own hands, leaky roofs, patching them up. They improved the half empty tenements. In about two cases they re-opened tinned up tenements.

And we, as a council, acted as a kind of a buffer between the administration of the urban renewal and the squatter phenomenon. We didn't lead it at all.

THE COURT: You took a position that they should be allowed to stay and you were able to point to their engagement in self-improvement?

THE WITNESS: Right.

THE COURT: Right?

THE WITNESS: Right.

THE COURT: So you took a stand they should be allowed to say?

THE WITNESS: The buildings had been standing half empty and suffering the worst kind of vandalism, drunks, fires. These people actually stabilized half empty buildings.

THE COURT: I got the point. What else?

THE WITNESS: My role was simply a kind of buffer and bridge between some of the squatter activity and relocation and the local urban renewal office, and in

one case sat in with them -- several cases -- one case with the borough president at Dr. Logan's house, in another case with Mr. Hazen when a meeting got broken up by a young Puerto Rican group. We went and had a discussion with Hazen and the squatters.

THE COURT: Now you are going into details that no one is going to question. In other words, I have got the thought. I have got the factual conclusion. That is all I am asking for. If Mr. Morris wants details as to what prompts your factual conclusions, let him go ahead and develop it. I will give him an opportunity.

You took the position they should be allowed to stay, they were entitled to some measure of protection, right?

THE WITNESS: Yes. To evolve that, we then took the position could we work them into the relocation workload in some way.

THE COURT: I got that point. What else?

THE WITNESS: The evolution -- let me see if I can make my point more clearly.

THE COURT: You made it clear all right. Just mention what the points are. Don't develop the points.

THE WITNESS: We backed that kind of push, but we were advocates. We were the friendly neighborhood middle

class types.

THE COURT: Advocates for what?

THE WITNESS: For the squatters not to be pushed out and to try to work them in in some way to relocation rights.

THE COURT: And you had opposition to that, didn't you?

THE WITNESS: Yes.

THE COURT: From the authorities?

THE WITNESS: Neighborhood people.

THE COURT: Eventually what happened?

THE WITNESS: Eventually -- I didn't live through it. In the following years there was a great turnover of squatters. The movement fell apart, and I think Father Farrelly or others in the neighborhood can testify as to how many were legitimatized by the City and put on regular tenant status. And whether or not -- I think it is still up in the air as to their relocation rights.

Q Dr. Browne, are you familiar with the term "tipping point"?

A Yes.

Q Could you define briefly what you understand the tipping point phrase means?

A I think the original study of Duncan back in the fifties in Chicago --

THE COURT: I am sorry. I don't care about Duncan. I want to know what Dr. Browne's definition of tipping is.

THE WITNESS: I am of the opinion that it came out and, as I understood it first, it had to do with racial tipping.

THE COURT: Now you are giving a history.

THE WITNESS: My definition is in flux.

THE COURT: Doctor, would you allow your students when you ask them a direct question like that, do you allow them to just write pages on the stuff, or do you want an answer?

THE WITNESS: They have to get to the point.

THE COURT: What is your definition of "tipping"?

THE WITNESS: The point is my definition of "tipping" -- let me put it this way: Is racial, that if a neighborhood changes racially it is tipped.

THE COURT: There it is, succinct and right to the point. That is what the other evidence indicates.

Next question.

Q What factors, and give them one, two, three, four as quickly as you can, would you say are relevant to

south and west, who saw the empty apartments, saw the

the West Side Urban Renewal area insofar as the tipping point concept is concerned?

A I don't know if I understood the question.

Q Let me ask you this: Do you think the tipping point theory is relevant and should in some way apply to the West Side Urban Renewal area?

A In my opinion from what I have read and observed from my nationwide contacts, the mystery of a changing neighborhood hasn't been satisfactorily answered in any general way. A study in Chicago, the Berkley studies in California, our own experience on the west side, it seems to me to apply one to the other is a mistake.

THE COURT: Now I am calling for an amplification. I don't quite understand you. Would you make that clear to me?

THE WITNESS: If you do a study of why people sell homes because black people are buying homes in the neighborhood, I lived through this in the northeast -- Catholic University section of Washington, for example. This was the Chicago study originally in '55. It seems to me it doesn't apply to a planned neighborhood where there are controls in high-rise apartments and a mix. It's a different ball game. And to apply tipping -- if 70 percent-- if it goes 70/30 it will go because it went that way in a

neighborhood of single family occupancy, it doesn't apply to a cosmopolitan mixed neighborhood, with a different history, et cetera.

THE COURT: You made that clear.

Q Do you think that the West Side Urban Renewal area has achieved its purpose, Dr. Browne?

A It depends. I know that list of purposes which read like the seven points. There used to be purpose enunciated earlier, we are going to bring back the middle class, it's going to increase the tax base. At one point they said 400 percent. Many of us in the neighborhood said you have to take it all from us. It has certainly brought back the middle class. I think Dr. Kristof's figures today illustrate that. It's brought in, it seems to me, a black middle class which nobody anticipated. I would say the presence of the first restaurants in the West Side Urban Renewal area and bars as middle class black is evidence of that change. Historically -- I won't go into it.

THE COURT: Good. That is good material. Go ahead now.

THE WITNESS: If I may use an analogy, McGlade's Bar first came into the West Side following German bars. It was a then going Irish working class -- the first

bars we call coming into the West Side Urban Renewal area were black and rather fancy, middle class type of places. I think the one on 96th Street is indicative of that. But there was an earlier one up around 99th Street.

THE COURT: Go ahead.

THE WITNESS: The change, as I see it, was from -- and I think what was missing in these statistics, the white population remained teh same ethnically, but in terms of class and economic status, quite drasticly changed from poor and working class. My own analysis of the figures which is perhaps not very scientific is when the neighborhood started to be renewed one out of every four might be classified as a poor family and with the projected figures it might go to one out of 16. So Urban Renewal as poor removal would be applicable not as black removal, which was used in other cities because we have really a small black population when this thing began. One of the reasons it was done was because they were afraid to touch an all black neighborhood like Harlem, and politically the white ethnic, whom we just rediscovered, was not up on its hind legs.

So the Catholic parishes, the Irish, Puerto Rican, speaking for them, getting into this act was a whole new ball game. We were fighting to maintain the working

class, poorer class elements in the community.

THE COURT : Get back to the testimony that you were developing very well until you got off a bit for amplification. Get back to it. You were talking about the favorable aspects and I would like you to complete that. Then tell me what you regard as the unfavorable aspects, what you would like to see revamped.

Now it's all yours. But do it the way you began to answer that question.

THE WITNESS: Okay. It certainly got community participation, more than I think anybody bargained for. It certainly kept -- these are the good points -- kept an emphasis on an ethnic mix. It certainly made for experimentation with every conceivable housing tool. I am sure the professionals would think it was a flop in that regard, perhaps. It certainly provided a new school, perhaps badly located, but it got an old school out of there.

Q What was the new school?

A P.S. 84.

THE COURT: You finish your answer.

THE WITNESS: It provided for several institutions with a little elbow room. Walden School expanded, Trinity, Columbia Grammar there has been into it whether or not.

St. Gregory's has a little addition to its building. So that these were plus. I am not sure I have a complete list.

THE COURT: That is as much as comes to your mind now?

THE WITNESS: The real cancer in the area was the brownstone rooming house with its fantastic turnover of population. It was a staging area for Puerto Ricans. It wasn't really black. They were paying $20 a week for a single room. I went through this, kids sleeping in beds piled up like cords of wood. That horror, it was wiped out of the west side. I don't know whether it went somewhere else.

This was a plus. The return of those brownstones to family living, et cetera.

The brownstones also made for a hidden feature of providing about 3000 upper middle income apartments which are not in this plan at all. In other words, the rehabilitation -- this figure sneaked up on us about three or four years ago. So when you look at the balance of class, of economic status, you got a wiping out -- not a wiping out, we saved -- I think the figure now is running about I'd say about 2000. If you use skewered rental and capital grant and supplementary welfare and

every other figure of who is getting aid up there, actually we should talk about the FHA people getting aid, the brownstone owners, property owners, who are in the business of renting apartments. It did so something about community life and really a forum through the council and organization of block associations, et cetera. All of this I think keeps the vibrancy of the neighborhood.

What was bad about it, I think as San Francisco it was overplanned, over financed and overdrawn out. It just took too long and the planners had no concept that the people were rising up in the '60s, which they did. People were speaking for themselves. Browne was pushed aside. We can talk for ourselves. We are squatters, tenants, Puerto Ricans, et cetera. I was becoming the enemy. I was blamed for everything. I stopped Alexander's. I went to one meeting and put my hand up. I stopped Alexander I was blamed and credited for things I never did. But people began to talk for themselves and they began to demand relocation rights in the neighborhood. This could not have been anticipated by the planners. They killed the small businessman, absolutely bombed him. They made no provisions for a plumber, for example. Wiped out that kind of thing by zoning. There were seven small businesses preserved by Strycker's Bay because we

went out and walked the street and said move over.

Turin House has about 50 percent of their stores that are relocated small businessmen from the neighborhood. This was a great thing to save. A guy getting a loan or getting together with a partner and transferring to a nice modern store where he had been in a little hole, you know. The fact that we got more poor people rehoused in their own community, poor and working class people. This was a plus. I give full credit to Strycker's Bay.

I mean that strictly as an organization, the staff people, the neighborhood volunteers, the people you have seen in action, I am sure just gave a lot of time and energy and developed an expertise so that the City of New York when Strycker's Bay shows up at the administrative office they bring out the heavyweights. They sit out there in full panoply. They know we know what we are talking about. I still say we even though I now have a low profile.

The other bad things I think was the fact that the tools began to not be able to provide for the larger poorer family and the welfare family. In Nathan's day we said let's do family planning, if you will pardon the expression, where we will take the existing families,

get a definitive list of their sizes, get the buildings projected,the apartment size and tell people, you will go from here to that building when it is opened. It never came off. We came close to it. I used to think the nub of the problem was less than a hundred large poor families who were not going to go away.

Now, in a sense, we say we can't solve all the social problems by housing, and we in Strycker's Bay as advocates were many times in very funny roles. For example, we went down to the Housing Authority --

THE COURT: I am sorry. You are doing fine except when you get off on that. To sum it up, on your last point, you are disappointed over what particular factors that are in existence that you feel do not carry out the overall perspective that you had envisaged?

THE WITNESS: The fact that the relocation housing did not go ahead first, did not in a planned way, staged way, take the people off the sites to be demolished and put them into housing and then demolish and then let new people come in.

I think the percentage of poor people who in a way, if you are talking about class characteristics, have more of a street life, would have been cut back considerably. The fact that they went from -- I have no

nostalgia from tenements. I lived in one. They should tear them all down. There were some beautifully fixed up. There is that distinction. They went from that to part of the leased public housing, or into new or rehabilitated public housing, and that was a plus. They had good management in the public housing when Manuel Hildes was there. He had a sense of compassion, personal relationships. I can't vouch for the last couple of years. Under Hildes we had understanding, we had working things out, we had tenants organizations all encouraged. These were plus.

That was a plus. Beyond that, as I say, the negatives were mainly the fact that the people with this kind of recognized right to be taken care of first were not, and I think this remains the nub of the problem.

MR. DOUW: No further questions.

THE COURT: That's good.

MR. LAND: Just one question.

CROSS EXAMINATION

XXXX

BY MR. LAND:

Q Based upon your knowledge of the community in general and the facts about which you have just testified, if Site 30, with 160 units of low income housing, is constructed as a low income housing project,

will the area tip? Yes or no?

THE COURT: In your estimation and according to your definition.

Q Yes or no.

A Absolutely not.

MR. LAND: Thank you. No further questions.

THE COURT: Cross examine.

CROSS EXAMINATION

BY MR. MORRIS:

Q Why were you removed from the West Side Urban Renewal area when you were?

A I don't understand the question.

Q You left in 1968, didn't you?

A I left in 1970, September.

Q I thought you testified that you left in 1968.

A I have repeatedly said I was a pastor of St. Gregory's from '68 to '70.

Q So you stayed there until 1970?

A September of 1970. I was no longer president of the Strycker's Bay council.

Q Weren't you forcibly removed from the West Side Urban Renewal area by the church?

A Absolutely not.

Q Absolutely not?

A No. That's a charge. May I resent that as a ~~definition~~ defamation of character.

THE COURT: He has a right to ask it.

THE WITNESS: He didn't ask it. He charged it. He said weren't you.

Q That is a question.

THE COURT: The answer is no. Next question.

Q Weren't you removed because your ideas were too radical and you were creating problems for everyone in the area.

THE COURT: He said he wasn't removed. Is that not so?

THE WITNESS: No on both counts.

THE COURT: Next.

Q You testified that you disagreed violently with some of the things that you discussed. You disagreed violently to many things that were done in the West Side Urban Renewal area, didn't you?

A Yes.

Q And, in fact, you steamed many people up to disagree violently, didn't you, in connection with your activities in the area?

A No.

Q No?

A No. Are you calling me a demagogue or something?

Q You testified that you conferred --

THE COURT: Hold it. He has a right to ask the questions. When you take the stand as a witness, as you have been reading certainly in the last year or so, you open up your whole life, really. There is no disrespect meant. He has a job to perform. He was given certain information and he must elicit it. You are to remain the witness and not take it personally. Would you please? The moment you do that, then we are going to have --

THE WITNESS: Out of respect to you, Judge, I will do that.

MR. MORRIS: May the record show Father Browne and I are old friends. We have been friends for years and we each have a job to do.

THE WITNESS: I remember having a corned beef sandwich with him.

MR. MORRIS: Many years ago.

THE COURT: What we should do is renew it although it would be a different price today.

Q Father, you testified --

A You can call me Professor or Doctor.

Q Which do you prefer -- doctor?

A Doctor.

THE COURT: There it is. You are entitled to it.

THE WITNESS: I really don't, if you know what I mean.

MR. MORRIS: You have always been Father Browne to me.

Q You testified you conferred with Fried. Is that Walter Fried of the HRB and HDA?

A Yes.

Q And you conferred with him on a number of occasions in connection with these problems that you are testifying to, is that right?

A Yes.

Q Were the squatters relocatees entitled to housing in the area?

A No.

Q They were not?

A No.

THE COURT: He said no. Next question.

Q They were illegal, weren't they?

A Yes.

MR. MORRIS: That's all, your Honor.

THE WITNESS: Can I add?

THE COURT: No, sir. Good day. Thank you, Doctor.

THE WITNESS: Thank you, Judge.

THE COURT: Thank you, Doctor.

MR. LAND: Doctor, sit down for a moment.

THE COURT: Who is directing who?

Your Honor, we would like to have Dr. Browne --

MR. LAND: If I may confer for a moment, please.

THE WITNESS: You're the boss.

THE COURT: You bet I'm the boss. A lot of people don't like it but I can't help that.

MR. DOUW: One question on redirect.

THE COURT: You see you started up something.

MR. DOUW: One short question.

REDIRECT EXAMINATION

BY MR. DOUW:

Q Dr. Browne, were all of the squatters non-relocatees or were some of them relocatees?

A To the best of my recollection, there may have been some who had moved off site and came back to their old neighborhood and in that sense were off-site relocatees, but I think most of them were -- certainly the leadership were from the peripheral areas, north and

south and west, who saw the empty apartments, saw the possibility to fix them up and moved in with some foresight. They became legal when the city recognized them and put some of them on the rent list.

MR. DOUW: Thank you.

MR. LAND: No further questions, your Honor.

THE COURT: You are feeling better, aren't you?

MR. LAND: Much.

THE COURT: I am glad. Thank you, Dr. Browne.

(Witness excused)

MR. LAND: I would like to introduce to the Court Peter Salerno , Assistant United States Attorney.

THE COURT: He is well known to all of us. Glad to have you.

MR. LAND: Mr. Salerno will call a witness on behalf of the United States with your permission.

MR. SALERNO: We call Hannah Hess.

H A N N A H H E S S , called as a witness by the government, being first duly sworn, testified as follows:

THE COURT: Is it Miss or Mrs.?

THE WITNESS: Mrs.

THE COURT: Mrs. Hess, you have been in the courtroom, I noticed. Will you please not add to my burdens. Just answer the questions that are put to you. You know that they know their subject, these lawyers. They know how to get from you the information they want. So most of the answers should be yes or no .

DIRECT EXAMINATION

XXX BY MR. SALERNO:

Q Mrs. Hess, where do you reside?

A 66 West 94th Street.

Q What kind of a building?

A It's a Mitchell-Lama co-op, middle income.

Q Is that within the West Side Urban Renewal area?

A Yes.

Q How long have you lived at that address?

A At that address, four years, and in the other building --

THE COURT: At that address. That is all he asked you. Next question.

MR. MORRIS: May we have the name of the Mitchell-Lama that is involved?

THE COURT: Yes. Would you give us the name?

THE WITNESS: Strycker's Bay Apartments.

Q Where did you live before you lived there?

A In the other building of the same co-op, 689 Columbus Avenue.

THE COURT: That's the way to testify. Next question.

Q How long have you lived within the West Side Urban Renewal area?

A Seven years.

Q Where did you live before that?

A Rego Park, Queens.

Q May I ask where you were born?

A Germany.

Q When did you come to this country?

A In June of 1940.

Q How old were you at that time?

A Six and a half.

Q What prompted you to move from Rego Park to the West Side Urban Renewal area?

A We needed a larger apartment because by then we had had our third child, and we really wanted to raise our kids in the kind of neighborhood that we had heard the Urban Renewal area was, a heterogeneous -- ethnically heterogeneous and economic heterogeneous area.

Q Did that appeal to you?

A Yes.

Q How many children do you have?

A Three.

Q What are their ages and sexes?

A Cathy is twelve, Margaret is nine and Samuel is eight.

Q Where do they attend school?

A P.S. 84, Manhattan.

Q Would you tell us, Mrs. Hess, your educational background, your own educational background?

A I went to the New York City public schools through high school. Went to the High School of Industrial Art graduated from there in 1951, went to Hunter College in the Bronx. Graduated from there in 1955 with a bachelor's degree in English, magna cum laude, Phi Beta Kappa. Went to UCLA and got a masters in English in 1956.

Q Are you presently employed?

A Yes.

Q In what capacity?

A I am working as a teacher in charg. of the Joan of Arc Mini School.

Q At what time --

MR. MORRIS: I am sorry.

THE COURT: Teacher in charge of Joan of Arc

Mini School. Isn't that what you said, madam?

THE WITNESS: Yes.

THE COURT: What is a Mini School?

THE WITNESS: It is a small off-shoot of a larger school. You don't want me to go --

THE COURT: I would like to understand it. I don't quite get it from what you said.

THE WITNESS: What it is, it is an attempt to personalize education for a segment of a larger school.

THE COURT: I see. Particular problems in that segment?

THE WITNESS: Mini schools vary. Our schools just took any kids at random from the larger school population, ninth graders.

Q How long have you held that position?

A Well, I have held it twice. I worked there from January to June of 1972, I believe, and then I took a year off and came back this January and have been working there since then.

Q What job did you hold previous to this?

A I started working for the New York City Board of Education in 1956 first as a per diem substitute and then as a regularly licensed high school English teacher in the High School of Art and Design from February of

1957 until February of 1962, when I went on maternity and child care leave for the next ten years

Q Are you at all familiar with Public School 84?

A Yes.

Q In what capacity?

A As a parent.

Q Did you participate in activities as a parent in Public School 84?

A Yes. I became active when my oldest daughter entered P.S. 84. I was P.A. president there I believe from 1969 to 1970 and have been on the executive board of the Parents Association there ever since.

Q Would you tell us very briefly what your experience was as a parent of a child in P.S. 84 beginning with the early years?

A I will try to do it very briefly. When I first brought my daughter there, the first thing that happened is they took one look at me and one look at my daughter and said she will do fine here and he put her in a "good class" without knowing me or the kid. That is typical of the way the school regarded children. They made judgments of children based on extraneous factors in many cases. And as I became active, as I began

to talk to other parents, I discovered that if any kids were being educated it was a very small segment and the kind of education they were getting was really not the kind of education that we wanted for our kids, that is, my husband and I. It was unimaginative, it was restrictive. My daughter began coming home with all sorts of judgments ~~of~~ her ~~piers~~ peers that she was getting from her teachers such as so and so is a terrible child and so and so is stupid, and so and so is generally the boys and generally the black and Hispanic boys. When I began to talk to other parents I found this was very pervasive and that the kids were neither learning nor happy. So we began to talk.

We began to try to see how we could make changes in the school so it would provide the kind of education we wanted not only for our own children but for everybody's children. And we began to organize the Parents Association to work with not only the middle class parents who had been active in the school but also with the black parents and the Spanish parents and we were able to forge association and to make real meaningful educational changes in the school so that now we have what I think is a viable educational institution going there.

Q Would you tell us perhaps in slightly more detail what you think were the beneficial results accomplished by the efforts of yourself and others in changing the education at P.S. 84?

A I think more children are learning. I think more children are happy to be going to school. The incidences of violence in the school has diminished considerably. It's a happy place. It's a place where when you go into a classroom, which I do frequently, although less since I have gone back to work, you find exciting education going on whereas in the past, you know, you would find an awful deadness with the teacher up front talking and the others sitting hopefully with their hands folded but not always.

Now when you go into the classroom a child would come over and show the work they are doing and say "Will you read with me?" Generally, you find learning is going on not only among kids traditionally expected to learn but others as well.

Q Did you have occasion to write a book about P.S. 84?

A Yes.

Q What is the title of that book?

A The Third Side of the Desk.

Q Who published that and when was it published?

A Scribbners in April of 1973.

Q What is the theme of that book?

A It's the story of how a group of parents, black, white and Hispanic joined together to make educational changes for all of the children involved.

Q Was the book based on your personal experience as a parent in P.S. 84?

A Yes.

Q What prompted you to write it?

A Partly just because I like to write, partly because I felt the story ought to be told for other parents so that parents all over could see that they also could be a force in the education of their children and partly because several sociologists were coming in to do studies in the school and I felt the story should be told not only sociologically but from the parents' point of view.

Q How thick a volume is it?

A 328 pages.

end t3b

BY MR. SALERNO:

Q Did anyone urge you to write this book?

A No.

Q Why did you decide to go to work for the Joan of Arc Mini School?

A Partly I had decided it was time to go back to work because my kids were getting older. But partly, if I may tell the story, your Honor, when my daughter, my oldest daughter, was in perhaps secnnd grade we drove past the school one day and she said, "Will I go to that school?"

And I said, "No. That's an elementary school, when you go on you will go to Joan of Arc, a junior high school."

She said, "That's a terrible school," and then thought for a moment but said, "You'll shape it up before I get there, Mommie."

So as my daughter was getting on into the fourth grade, I guess I decided it was time for me to act on that mandate and try to shape it up, so when I had the opportunity to go to work at the mini school at the request of the parents and the staff there, I thought that would be a good way of helping to make the kind of changes I wanted to see at any school I wanted to send my kids to.

Q You mentioned your present position is teacher in charge of tnat school.

A That's right.

Q In amplification of what his Honor asked you before, tell us what is the Joan of Arc mini school and what is its relationship to the regular junior high school?

A It draws its students from the general population of Joanof Arc high school. At the present time it is only a ninth grade school, although we hope to take eighth-graders next year as well.

At present we have 68 youngsters. Again we hope next year to have 120.

The aim of the school is to take youngsters out of a large and impersonal overcrowded situation, especially -- it is the period in their lives when they are most insecure internally, when they don't know whether they are kids or adults, and they have these internal changes going on, and it is a time when they really need all the security, all the personal attention, and all the affection that caring adults can give them.

Unfortunately most large schools just can't do that because when you have 1400 kids in a school and 200 faculty members you just don't get to know each other, and that causes problems for the youngsters which in

turn causes problems for the school and staff.

So the mini school idea is an attempt to humanize, to make it smaller and more personal, and to give the kids in addition to the education that they need the kind of ability and warmth and affection that will make them respond as nice kids.

Q What sort of programs does the school have that carries out the policies?

A We try very hard to individualize instruction, to teach not a whole class but to start where the youngster is, with whatever strengths and weaknesses he has, and to go from there and to build on that, to, you know, try to get him from where he is to where he needs to be in order to be effective in society.

THE COURT: The overriding approach is personalized attention?

THE WITNESS: Yes.

THE COURT: Of course it goes without saying that any human being would commend that, but does that need to be established? Don't we know that that is true? The more intimate the association between an authoritative figure and another is the extent of their involvement with one another.

Does that have to be proven or is your answer this is for the sake of proving something?

THE WITNESS: I don't think it is for the sake of proving anything. I think it is for the sake of the kids and doing it.

Q Are there any specific courses you think are particularly effective in improving the children's educational ability?

A One of components of the school was through the science program down at the NYU medical center. When the program first began five years ago the youngsters went down to the medical center one day a week where they worked with doctors, laboratory technicians, nurses, various people, doing real work down at the medical center.

MR. MORRIS: We are getting pretty far afield.

THE COURT: I am ready to say that Mrs. Hess impresses me as an authority and she knows whereof she speaks.

That doesn't deny Mr. Morris the right on cross-examination to pursue the subject, but as of now you don't need to add any more about her intense concern with these problems and her knowhow and her ability in that area.

What is it you want to have her say so far as the points I am concerned with?

Q What is the basis for selecting students to be students at the mini school from a population of Joan of Arc regular high school?

A I feel they should be chosen not quite at random but rather through the expression of some interest in this kind of program, because the one thing that the program does demand is a certain amount of responsibility for themselves. They do travel more than they do in the main school, so we would prefer to have kids who think they are ready for that kind of responsibility.

Unfortunately, because of the exigencies of programs, very often we get kids at random so it takes a little longer to build that kind of responsibility.

Q What generally is the ethnic and economic breakdown of the students?

A It is the same as the main school, 99 black and Hispanic and one per cent other, about 99 per cent, 98 per cent poor, and one or two per cent middle class.

Q Are you familiar with conditions at the regular Joan of Arc Junior High School?

A Yes.

Q How have you observed what goes on there?

A Well, I am over at the main school several times a week either to attend meetings or to talk with the principal who is my boss, or to pick up supplies, or to take care of various other details.

In addition, I have many friends whose children

are presently at Joan of Arc or who have gone through Joan of Arc and, in addition, I speak frequently with people who teach there.

THE COURT: Do you speak Spanish?

THE WITNESS: No.

THE COURT: You are able to communicate with the Spanish-speaking parents?

THE WITNESS: Most of them speak enough English so we can make it, otherwise one of the kids usually translates.

THE COURT: Proceed.

Q Very briefly, please, tell us what you do observe in your contacts with Joan of Arc and how sensitive is the education of the institution?

A There are some teachers there who really care intensely and really in spite of pretty unfavorable conditions are doing a real fine job. I think there are many other teachers there who have become so ground down by the impersonality, by the fact that any attempts they have made to improve education for the kids have been knocked down by various administrators over the years that they are totally demoralized and totally discouraged, which carries over into the classroom and in turn demoralizes and discourages the kids.

There is a great deal of hostility. If you walk through the halls a kid will bump into you and he won't say "I'm sorry, " or anything. It is an attitude rather than anything really terrible.

I think the school is safer than it was several years ago. I think there is less violence, less extortion than there was in the past.

But basically I think because it is so huge and so anonymous, the kids feel it too and they respond in kind. When you take the same kids and bring them over to our place the first thing that goes is the hostility.

Q I was going to point out: You have said that all the students at the mini school, of which you are in charge, are from the same schoolyou have just described, the junior high school. Tell us what changes you have observed in these students who previously attended that school.

A First of all, I guess the most easily measured is that there has been a marked increase in the reading scores as measured on Metropolitan achievement tests over the year. I would say of our 68 youngsters about 40-some of them have made gains of a year or more from last year's scores to this year's score.

Others, although the improvement has not shown

up yet on the tests, when we work on a one-to-one basis in reading there is a marked improvement in their reading skills.

We have kids who last year were truant practically all year.

Q One moment, please, in the reading. I believe reading scores are very impressive.

You say you observed the increases in reading ability mostly in schools, or have you observed it in other ways as well?

A Through scores as well as working on a one-to-one basis with individual youngsters.

Q Does the school do anything special -- describe this very briefly -- in terms of what kind of programs you think helps to increase the students' reading ability markedly?

A We do have reading courses for the kids who need it and they take at least one period of reading a day and sometimes some of them take more. I think though it has as much to do with their feeling about themselves and their self image as it does have to do with any reading course.

There is another thing. We eat lunch with our youngsters and we have various educational games that

are available to them at lunchtime, one of them being scrabble. One of the things that has developed, we have developed a whole corps of scrabble nuts, and kids who can't read in many instances will buttonhole any adult who comes by and says "Play scrabble with me."

One girl who said several months ago, "I'm going to improve my reading score; I will play scrabble every day at lunchtime," and by golly she has. Her reading score went from 7.4 to 10.0.

Q That is an increase of how much?

A Two years and four months in one year.

There have been other youngsters who through the scrabble have become interested in vocabulary, who have gone out to buy --

THE COURT: With all due respect, scrabble and this and that, you are the answer. It is your concern and your devotion to your undertaking and to your mission that have brought this about. I could sit here all day and get a lot of information, but it is your presence that makes it different.

I don't know what your point is. If you are pointing out to me that through such an approach by an enlightened human being, children can be made to write and give a good account of themselves, I don't need proof

on that score at all.

May I just say to show you my familiarity with that kind of valuable contribution, all my judicial life I have held against voices in opposition, that we should talk as judges to the defendants, and I have been a lone voice. The answer has been "We are not social workers."

I have taken the position that we should talk to them, tell them why the sentence is such and such. If placed on probation, say why and what is expected, what will happen if the opportunity is not availed of. Those of us who do these things and believe in them have seen people, defendants, rise from the gutter to positions of responsibility.

It is the only dividend a Judge gets out of his work. I would say that that kind of result is almost 95 per cent. That is a big percentage.

These defendants do not come from enlightened areas. Most of them start out in the dumps, so I need no enlightenment.

I am sorry to have injected this. I can see no other approach so far as I am concerned, and I am awfully fortunate to be in a position to be able to do it.

You don't have to give me any proof on that.

MR. SALERNO: If I may just ask the witness

very briefly to give specifics in a couple of problem areas that one sees at Joan of Arc regular junior high school --

THE COURT: That is a different proposition.

MR. SALERNO: This is other than reading, other areas than student behavior.

Q In specific terms tell us what happens when these very same students come to the mini school.

A One youngster --

THE COURT: One youngster is not going to help me.

A Many youngsters who have discipline problems at the main school, who have been either disruptive, assaultive, have J.D. cards, records of failure and truancy, at the mini school they have been able to cut through that whole behavior pattern and, you know, straighten out.

Q What do you find their attitude towards school work is aside from disciplinary problems and truancy and things like that? Does that change?

A Yes. In many instances it has and in some it has not. They have a more positive approach to the school. Their aspirations have risen. Many of them who thought they were going to drop out now are considering not only high school, but college as well.

Q Do you have an opinion as to the potential of

perhaps the other students at Joan of Arc regular school who may be problem students?

A Under the same conditions?

Q If given the kind of education the mini school offers.

A There are attempts being made at the main school by teachers and parents to try to miniaturize within the building, to try to replicate what we have been doing on the outside on the inside, and unfortunately, they run into problems of programming where rooms that they need to be continguous are not available and it can't be done because the program won't allow it. You run into all the bureaucratic hassles that work against it.

That is one of the reasons I am glad we are on the outside.

I think there are enough people at Joan of Arc who care, that if they got some support from the administration I think the same thing could happen there. They are the same kids and basically they are nice kids if given a chance.

Q The mini school is an experimental program in terms of planning or whatever. Will its experience have an effect on the way Joan of Arc regular school --

A It has already in that the teachers want to

make mini schools within the larger school. Some of them are also talking of taking more clusters out of the main building into some other sites.

Q What have you observed about parental attitudes, briefly, of parents of students in both schools?

A Well, the parents association meetings I have attended at the main school generally draw four parents. We do a little better than that at the mini school. I think the reason is that the parents feel rather hopeless about Joan of Arc at the moment. They are busy and they work and they are not going to come out unless they feel there is hope. As soon as a notice goes out saying, "New plan for improving Joan ofArc," you get increased attendance at the meetings.

THE COURT: No more on that score. It is saying the same thing that I said.

Q What are your feelings about sending your own children to Joan of Arc?

A Well, as it is right now I would have great trepidation, not because of the nature of the student body but the nature of the lack of education.

THE COURT: For the reasons you have already assigned?

THE WITNESS: Yes.

Q You would in the future if it got better?

A If it changes in the direction I hope it does, I would do that.

Q Are you optimistic about its future?

A Yes.

Q Why is that?

A Because I am an optimist. Because I think it is possible. I see the school in the next cluster down with the same population and that school over a period of four years has been able to make the kind of changes that need to be made there at Joan of Arc, so I think there is no reason why it can't happen at Joan of Arc given the proper administrative support.

THE COURT: Again I say not just administrative support, but also, which is essential, a sense of dedication and genuine concern and real depth in caring. That can never be minimized. That is the uppermost factor.

There is overwhelming evidence of that. Counsel, how are we ever going to get people to take on that kind of fervor which is essential? I don't know. I don't know whether the church has succeeded in sending out people imbued with that kind of feeling,but to say it can be done away with or there are substitutes for it is ridiculous.

In my book it is the outstanding feature, so

won't you please now put questions to this lady that will be almost leading questions. I will permit it.

What is it you want her to tell me.

Q Your professional life as well as your home life, is it centered within the West Side urban renewal area?

A Yes.

Q So you are there all during the daytime hours?

A Yes.

Q You, like many of the other people in this courtroom, walk around the community frequently?

A Yes.

Q At any particular hours of the day or night?

A All day and most evenings.

Q Do you have any fears for your personal safety in the course of these walks?

A No.

Q Have your children expressed any fears?

A No.

Q Have you or your family ever been the victim of any crime in the area?

A No.

Q Have you ever had any esthetically offensive things happen to you in the sense of remarks on the street,

hostile or offensive remarks directed at you?

A No.

Q What do people say to you? Is it a friendly neighborhood?

A Usually it is "Hi, Hannah."

MR. SALERNO: I have no further questions.

MR. LAND: No questions.

MR. DOUW: No questions.

CROSS-EXAMINATION

BY MR. MORRIS:

Q Do you have a child in PS-84 now?

A Three children.

Q All three of your children go there?

A Yes.

Q But you have no children in Joan of Arc?

A No.

Q Where is the mini school located in relation to the junior high school?

A Four blocks away.

Q What street is it on?

A 97th Street between Columbus and Amsterdam.

Q It is not in the West Side Urban Renewal area, is it?

A I am not sure where the area ends.

Q What side of the street on 87th Street is it?

A South side.

Q It is in the West Side between Columbus and Amsterdam?

A Yes.

Q It is in the area. How many students are there in Joan of Arc Junior High School?

A 1400.

Q And how many in the mini school?

A 68 at present.

MR. MORRIS: That is all.

THE COURT: Anything else?

MR. SALERNO: No, your Honor.

THE COURT: Madam, before you leave, instead of taking an elaborate recess, and out of a sense of appreciation to Mr. Douw for crystallizing his examination of Dr. Browne, which was no mean feat, I am going to take a couple of minutes to share something with you off the record.

(Discussion off the record.)

(Recess.)

THE COURT: Call your next witness.

B E T T Y J O A N L A W R E N C E, called as a witness, having been first duly sworn, was examined and testified as follows:

THE COURT: Be good enough to answer the questions that are put to you and do not enlarge on your answers unless it becomes necessary.

THE WITNESS: I will do my best.

DIRECT EXAMINATION

BY MR. DOUW:

Q Where do you reside?

A 65 West 90th Street.

Q What building is that called?

A St. Martin's Tower.

Q Where is that in relation to Site 30?

A It is directly opposite on Columbus Avenue.

Q When did you move into St. Martin's Towers?

A May 1, 1971.

Q Where did you live before that?

A In Park West Village, 97th Street.

Q How long have you lived on the West Side?

A About 25 years.

Q Are you on the cooperative association at St. Martin's Towers?

A I am chairman of the Cooperators Association.

Q What is that? Is it a board of directors?

A No. We are still under a trustee board of directors. The sponsor still controls our building. The Cooperators Association is an organization -- the cooperators, the tenants in the building, have set up to represent their interest with HDA and the local community and our sponsor.

Q St. Martin's is a co-op?

A Yes.

Q How long have you been on that association?

A For three years.

Q How long have you been chairman?

A Since January of this year.

Q Because of your involvement in the building on the Cooperators Association do you know many or most of the people in the building in one fashion or another?

A Most of them.

Q How many families in the building would you consider your friends, whom you know personally?

A Closely, seven or eight.

Q When you moved into St. Martin's on May 1, 1971, did you know that Site 30 was being proposed for public housing?

A Yes, I did.

Q Would you describe what you knew about Site 30 and what its proposal was at that time and what your expectations were?

A I knew that originally the building had been scheduled as a middle income co-op. I recall that because the sponsor was the American Legion and it stuck in my mind.

I knew also that after the squatters had occupied our building, and so forth, that there was talk of changing it to a low income site. I assumed that that would be done when we moved in there, into our building. I assumed that Site 30 would go to public housing.

Q When were there squatters occupying St. Martin's Towers approximately?

A I can't tell you exactly. February or March, just prior to move-in date. As soon as the squatters moved out people began moving in to St. Martin's.

MR. DOUW: Your Honor, Defendants' Exhibit S will show that the occupancy date for St. Martin's Towers began in March of '71.

THE COURT: Thank you.

Q When you moved in, were you among the last to move into the building?

A Yes.

At the time that we moved in we got ~~out~~ our apartment only because someone else had originally accepted it and then decided they didn't want that apartment. We were the last except for the capital grants apartments. They were the only other apartments still empty when we moved in.

Q Those apartments were the only apartments vacant at that time?

A Yes.

Q The occupancy of the building took about two months in March and April of 1971, is that correct?

A Yes.

Q From your familiarity with the people in the building and your knowledge about the building, do you know whether there was a general understanding as to what the proposal for Site 30 was?

A As far as --

MR. MORRIS: I object to that if she knows what other people knew.

THE COURT: I will let you answer yes or no. Did you know?

THE WITNESS: Of some people, I knew the feeling of some people.

Q Those people that you did know, did they

recognize or realize that Site 30 was being proposed for public housing?

A Yes.

MR. MORRIS: I object to what they recognized.

THE COURT: Yes. We have been receiving the talk of the neighborhood on a matter of this kind. It is really a question of weight. I think it is admissible. I will let the answer stand.

Q Di you know of anyone who expected Site 30 not to be public housing?

THE COURT: Did you hear any talk in the neighborhood, etc.? Put it that way.

A Yes. I heard talk in the neighborhood. I can't answer this yes or no. It will only take a second.

THE COURT: Proceed.

A I knew of some people who knew that low income housing was planned for that site, but hoped to change it.

Q Mrs. Lawrence, are you seeking another apartment in the building?

A Yes.

Q What is the size of your present apartment?

A We now have a two-bedroom apartment. We have an application in for three bedrooms.

Q How long have you been waiting for a three-bedroom

apartment?

A Two years.

Q How many three-bedroom apartments are there in St. Martin's?

A Thirty-nine, I think, or 40, possibly.

Q In the time you have lived in St. Martin's, how many instances of crime have there been in the building or in the immediate vicinity?

THE COURT: To your knowledge.

A To my knowledge in three years we have had one mugging in the building, one on the street directly in front of it on Columbus Avenue, and one -- I don't know what you would call it -- a kid's wallet was snatched by some other children. I guess that is robbery.

Q Have you read the testimony that Mr.Wayne Owens gave in this action?

A Mr. Miles Owens, yes.

Q I beg your pardon. Do you have any comment about the fires that he mentioned in his testimony?

A Yes. He mentioned having two fires in the neighborhood which apparently he felt would not have happened in another kind of neighborhood. They were -- as a matter of fact one of them was on Site 30 before it was cleared. The building were empty. There was a fire. It gutted out --

subsequently they tore the buildings down.

The other one was just a couple of weeks ago on the southeast corner of 90th Street, which is also directly south of Site 30. The top two floors were burned out.

I don't know what caused those fires and I don't know how anybody can say that a fire would not have happened in another kind of neighborhood.

Q Are there any other facts Mr. Owens gave that you wish to comment on?

A One was, he said he was not sure of the number of capital grant apartments in our building. There are 20, which is 11 per cent of our building.

Q What was his testimony?

A I think he said he thought there were 18, but he didn't know.

MR. DOUW: That is all.

MR. LAND: No questions, your Honor.

THE COURT: Mr. Liner told us his position, that there would be no cross-examination.

MR. MORRIS: No cross.

MR. DOUW: Your Honor, we have witnesses scheduled for this afternoon. One has not arrived up to now.

THE COURT: Off the record.

(Discussion off the record.)

THE COURT: Do you have anything, Mr. Land?

MR. LAND: There has been virtually no cross-examination on the witnesses we had today. I think there were a total of four people.

THE COURT: That is good sense. I hail it.

MR. LAND: We put that in our time schedule, believing there would be cross-examination.

THE COURT: That is a weak position. There is no guarantee as to what the cross-examiner will do.

I will go to chambers for ten minutes.

MR. DOUW: I will see what the status is, your Honor.

(Witness excused.)

THE COURT: Is that all right?

MR. MORRIS: Before we adjourn, you raised the question of an evening session. May we resolve that now?

THE COURT: We are going to. Thanks for reminding me. I want to do it if you can get me the proof.

MR. LAND: We do not think an evening session would be necessary. All the attorneys are in unanimity on that view.

THE COURT: I will take that.

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How does it look to you?

Do you think we will be able to close the evidence by next Tuesday?

MR. LAND: We believe so.

MR. DOUW: I believe so.

THE COURT: Thank you.

On that note I don't want to hear another word. I am leaving the bench.

In ten or 15 minutes let me know how you make out.

(Recess.)

(Luncheon recess.)

AFTERNOON SESSION

2:30 P.M.

(Trial resumed)

THE COURT: Sorry to keep you waiting, gentlemen. I had something to take care of.

All right, next witness.

MR. LINER: Colonel William C. Hunter, please.

WILLIAM C. HUNTER, called as a witness by defendant City of New York, being first duly sworn, testified as follows:

THE COURT: Mr. Hunter -- I say this to all witnesses -- will you keep your voice up. The acoustics here are bad. Will you just answer the question that is put to you and don't volunteer anything. All right?

THE WITNESS: Yes, sir.

DIRECT EXAMINATION

BY MR. LINER:

Q Colonel Hunter, where do you presently reside?

A 75 Surrey Drive, Wayne, New Jersey.

Q And where are you presently employed?

XXXX

A With the New York City Health and Hospital Corporation.

Q And what is your capacity of employment there?

A I am employed as a senior health facilities planner.

Q Could you please repeat that?

A Senior health facilities planner.

Q Prior to your employment in the Health and Hospital Corporation where were you employed?

A With the Housing and Redevelopment Administration or HRB. One is synonymous with the other.

Q For how long were you employed there?

A From 1963 to 1970.

Q And prior to HRB, where were you employed?

A I retired from the Air Force after 20 years of service.

Q What rank did you hold in the Air Force?

A Lieutenant Colonel.

Q While in the Air Force, what were your basic duties?

A My major function was housing in the Pentagon and the development of housing program, Title 8, FHA. That was to develop housing at the Air Force base world-wide.

Q And approximately how many housing units did you deal with?

A About 30, 35,000 housing units, dollar amount about $40 million.

Q Do you have any degrees or educational background which are helpful in the housing area?

A Yes.

Q What are those degrees?

A I started with Newark College of Engineering and transferred to Pratt Institute for a degree in architecture. At that time I went into service in 1944. During service I was sent to schools in George Washington University for business administration --

Q Could you speak up a little bit.

A I went to the George Washington School of Business Administration, I was sent to MIT for a degree in meteorology. Later on I was sent to MIT again for a degree in city, state and regional planning.

Q Do you have any professional licenses?

A Yes. I am licensed in the State of New Jersey as a professional engineer. I am licensed in the State of New Jersey as a professional planner. I have an application pending for professional engineer in the State of Florida.

Q When you were working at HRB did you work on the preparation of the West Side Urban Renewal and plan the amendments to the plan?

A No.

Q When you worked at HRB what office did you work out of?

A I started with Two Lafayette Street and while I was at Lafayette Street I designed the requirements for the site office at 167 West 89th Street and when the construction was finished we moved up there and took over the site office.

Q That was the site office for the West Side Urban Renewal area?

A That was the original site.

MR. MORRIS: When was that? May we have the time fixed?

THE COURT: Yes. Fix the time, please.

A That would be 1963, the latter part of 1963.

Q While at the site office what was your basic function?

A To discuss the rehabilitation of brownstones within the west side.

Q Were those brownstones city-owned?

A Some were city-owned but most of them were not

city-owned. There was a total of 485 brownstones in the whole West Side Urban Renewal area.

Q Did you do any cost analysis?

A In the course of our conversations with the people who wanted to buy a brownstone or figure whether they could afford to buy a brownstone, we would find out what their personal requirements were for living within that building and then we would deliver preliminary architecture drawings to show the requirements and then we would indicate to them that the remainder of the building could be developed for rental income.

After we went through this with them we would then develop the FHA preliminary mortgage analysis in which we would show what value they would have to have in order to make a formal application to FHA for mortgage analysis purposes.

Q Approximately how much brownstone financing, in terms of dollars, did you obtain through the site office?

A About $20, $21 million.

Q While in the site office, did you aid the brownstone purchasers in applying to the city as to the renovation of their brownstones?

A Yes. The basic plan for the Urban Renewal

incorporated the requirements with the -- City of New York requirements for the development of the brownstone. We went through this. We set up the architectural requirements and mortgage requirements and we automatically set up all the other requirements for the development of that brownstone for the particular need of the person who wanted to buy it.

Q When you first started in the site office, what was the average price of brownstones?

A This varied on the width and depth of the buildings. Normally you looked at a 20 foot building, you figured the price at that time was $20,000. An 18 foot building would probably be about $18,000.

Q So that an average price would be about $19,000?

A Yes.

Q From the period 1963 to 1970, when you worked at the site office, did the price of the brownstones increase?

A Yes.

Q Approximately how much did they increase over that period of time?

A I would say they doubled.

Q When you left the site office in 1970, was the brownstone program completed?

A No.

Q And what was the reason for not completing the program?

A The basic reason was the increased purchase price of the building, the increased constructions costs, the increased mortgage interest rates and the banks were losing interest at that particular time for providing mortgage money.

Q In your opinion, was the total brownstone program successful?

A Absolutely.

Q While working in the site office, did you do any work pertaining to the high-rise apartment buildings in the West Side Urban Renewal area?

A No.

Q Do you remember having any conversations with Dr. Jerome Fine?

A Yes.

Q And what were those conversations about?

A Generally the proposed development of his brownstone building.

Q Do you remember having any conversation with Mr. Carlin?

A Yes.

Q And they were about?

A They were about the development of the building he was trying to purchase from the City of New York.

Q Did you have similar conversations with Mr. Hudgins?

A There were two Mr. Hudgins, William Senior and Alvin, Junior.

Q Did you have conversations with either of them?

A With both of them, yes.

Q Pertaining to what?

A The development of Mr. William Hudgins' building, which was then in construction. We had to inspect the construction, certify that his building complied with construction drawings and certify to FHA they met the requirements of the City of New York.

MR. DOUW: Could you keep your voice up? I didn't hear you.

THE COURT: He is having trouble, I am afraid.

Would you read the answer so that Mr. Douw can get it, Mr. Reporter.

(Answer read)

THE COURT: Thank you, Mr. Liner. I don't know what made me think you were sitting down.

Q I show you Plaintiff's Exhibit 10 entitled "Urban RenewalArea,West Side." Do you recognize that?

A Yes.

Q Did you give out copies of this exhibit to prospective brownstone owners?

A Yes.

THE COURT: You spread it out, distributed that broadly?

THE WITNESS: Limited numbers. We only had a limited number.

THE COURT: Do you remember how many you had for distribution?

THE WITNESS: Perhaps two dozen.

Q I show you Plaintiffs' Exhibit 13, "Rehabilitation in the West Side Urban Renewal Area." Do you recognize that?

A Yes.

Q Did you give that out to the prospective brownstone owners?

A Yes, we did.

Q When you talked with people interested in buying brownstones did they ever ask you what type of housing would be in the West Side urban renewal area?

A Yes.

Q What did you tell them?

A We showed them the book you showed me the first time.

THE COURT: Exhibit 10.

A Number 10. We showed them the map which was an enlargement of the map that was contained in that book -- we had it on our wall.

Q That was all?

A Yes.

Q Did they ask you for any additional information?

A We told them we had no additional information pertaining to the multi-story highrise building and referred them to the office downtown, 2 Lafayette Street.

Q That was the main office of HRB?

A Yes.

Q Did you ever state to anyone interested in buying a brownstone that there would be 2500 units of low income housing within the West Side urban renewal area?

A No.

Q Did you ever state to anyone interested in buying a brownstone that there would be an economic mix within the urban renewal area of 70 per cent middle income and 30 per cent low income?

A No.

Q Did you ever make any statement as to percentage breakdown of luxury, middle and low income housing units within the West Side urban renewal area?

A No.

Q Did you have the authority to make a statement as to the number of low income units within that area?

A No.

Q Did you have any authority to make a statement as to the percentage breakdown of rental units within the West Side urban area?

A No, sir.

Q Did you have any knowledge of the low income units within the area?

A No.

Q Did you have a knowledge of the percentage breakdown of low income units within the West Side urban area?

A No.

THE COURT: Mr. Liner, I suggest because you restricted those good questions towards the end to brownstone purchasers, what did he say to anybody else?

Q Did you make any statement to anyone on any occasion that there would be 2500 units of low income housing within that area?

A No.

Q Did you make any statements to anyone at any time that there would be an economic mix of 70 per cent middle income and 30 per cent low income within the West Side urban renewal area?

A No, sir.

Q Did you make any statements to anyone at any time as to the percentage of luxury housing, middle income housing, and low income housing within the urban renewal area?

A No.

MR. LINER: Thank you.

THE COURT: Mr. Land.

CROSS-EXAMINATION

BY MR. LAND:

Q In connection with your services at the site office did you work with Mr. Maylott of the Housing Urban Development?

A Yes.

Q In what connection?

A Before we went to open the field office we had many discussions with Mr. Maylott. We were at that time trying to demonstrate our ability and knowledge of FHA requirements.

We were showing him we had the capability, architecturally, engineering-wise, and construction-wise, and particularly we knew about the particular mortgage documents that he needed and FHA application forms.

Once we went to the field office for perhaps five or six months we sort of jointly -- it was a team from his office --

Without having the prospective purchasers go down and take up all the time in developing the preliminary data, we had a team in our office and we jointly processed these papers as a preliminary mortgage application. Once we demonstrated this to Mr. Maylott we could do this, then he withdrew his site team and we worked this alone and we saved a considerable amount of time both for FHA, but more so for the prospective purchaser because they had a job to go to and found it inconvenient to spend many hours going through all this paper work, especially going uptown or downtown.

They could come to a field office that could give them a complete knowledge before they made the formal application.

Mr. Maylott relied on us to develop this information for his office.

Q You were aware, were you not, that up through

1966 there were four separate revisions to the urban renewal plan?

A I had heard of them, yes.

Q At any time did you tell anyone that they could rely upon the site designations on Exhibit 10 as fixed and immutable?

A Positively not.

BY MR. LINER:

Q When you showed people interested in purchasing brownstones the brownstones, at any time did Mr. Austin Haldenstein accompany you on the showings?

A Well, I don't recall he actually accompanied. He was selling a piece of property. It was not a city-owned property. He probably brought his client to us rather than us go with him to show a building. The building was of no interest to us until we had a prospective purchaser, someone to talk to. He was trying to sell the building. We had no interest in his contact with his client until the building was sold. He could bring his client to our office and we would discuss the requirements for that person to live in the building and develop rental income within the property. We would do this with Mr. Haldenstein. We had done it many times, with he and a client, for a prospective building.

MR. DOUW: No questions, your Honor.

THE COURT: Mr. Morris.

CROSS-EXAMINATION

BY MR. MORRIS:

Q During the years that you were in this office would you say a large number of people came in and consulted with you about possible acquisitions of brownstones?

A Yes.

Q When they came in what procedure did you follow? What did you do when they asked you about the situation as to the development of a brownstone?

A First we would ask them, "What particular property are you interested in?" There was sometimes many people that would come in and ask about the same properties. We alone knew in the City of New York what was happening to a particular brownstone. Many people would ask us about the same address. We would say, "Why waste your time about a building that is to be purchased?"

Or, "We are now developing a preliminary mortgage application on this property."

Q Did you get people coming in who didn't have a particular building in mind, but came in for information about the project?

A Yes.

Q Would you give them information about the project?

A Yes.

Q You would tell them what the urban renewal plan called for?

A What the brownstone plan was.

Q The brownstone was part of your urban renewal plan?

A Yes.

Q You would tell them what the plan was about?

A As it applied to a brownstone owner.

Q Did they usually ask you questions about what the urban renewal plan contemplated, what was going to be done?

A In general terms, yes. We were not privy to the development of any multi-story highrise buildings.

Q I am speaking now only of people who came in to consult with respect to brownstones and so forth.

A Yes.

Q You say you had a map on the wall, is that right?

A Yes.

Q Did that map specify the proposed disposition in the plan of each site in the West Side urban renewal area?

A I don't know what you mean by disposition.

Q Let me show you this map.

A You mean by having numbers, yes.

Q What was the map you had up on the wall?

A It is an enlargement of the map that Mr. Liner is holding.

MR. LINER: This is part of Exhibit 10.

THE COURT: Show it to him.

MR. MORRIS: This map does not really set forth the project plan.

Q Wasn't there another map that set up the project plan for the entire project that you showed to people?

A Superimposed -- that map was enlarged and superimposed on the enlargement with the areas designated for the specific site development, yes, which in reverse showed us the actual brownstone building to be developed. You could look at it either way.

Q Therefore when people came in and asked you questions about the brownstones and consulted the map, did you take them through and show them just what the different uses were specified in the map?

A May I say that some people were trying to buy a brownstone building within the designated area of the multi-story highrise. They were not aware that that was a piece of city-owned property and could not buy it because it was scheduled for demolition. That happened

many times.

Q I didn't understand that.

A. If someone was going to buy a brownstone on Site 1 -- I don't recall the number -- but within that site area, that site area included the buildings fronting on Amsterdam and Columbus, and that site went back 200 feet, within that 200 foot area going into the side street, there were probably four or five brownstones. Some people were trying to buy within that designated multi-story highrise area.

Q What would you tell them?

A Because we had the map we could point out to them that building was not for sale under any circumstances.

Q When they came in and asked you questions about the situation with respect to the urban renewal plan, you consulted that map and showed them on the map what the situation was?

A Yes.

Q Wasn't it a matter of public knowledge that there would be 2500 units of low income housing in the project?

A I was not aware of it.

Q You never heard that figure?

A I don't recall hearing that figure, no, sir.

Q You never heard anything about that?

A No.

Q Did you ever hear any discussion about there being a 70-30 ratio of low and middle income families?

A No. That was not my business to know about it. I had nothing to do with multi-story highrise. I was not concerned with the distribution of the families within the building.

Q But you were concerned with the urban renewal plan itself?

A As it pertained to brownstones, yes.

Q When someone came in and asked you a question about a brownstone they would naturally be interested in the situation in the surrounding area?

A I would think so.

Q They would have asked you questions about it?

A Yes.

Q You would be in a position to answer them?

A To a degree in telling them if they wanted specific information on that particular multi-story highrise to go down to 2 Lafayette Street and talk to Mr. Mollen or Commissioner Ratensky or George Kaye.

MR. MORRIS: No further questions.

THE COURT: Thank you.

(Witness excused.)

MR. LAND: Will Mr. Morris stipulate if Mr. Lauria were called he would give testimony essentially the same as Mr. Hunter?

THE COURT: Without conceding the truth therein.

MR. LAND: Yes.

MR. MORRIS: We will concede that, your Honor.

THE COURT: Thank you.

MR. DOUW: Your Honor, I call Mr. Irvin Schwartz to the stand.

I R V I N S C H W A R T Z, called as a witness, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. DOUW:

Q What is your profession?

A Magazine editor.

Q What is your present position?

A Editor of Chemical Week Magazine.

Q Where do you live?

A 55 West 94th Street, Manhattan.

Q Are you the husband of Mrs. Elaine Schwartz who testified here today?

A Yes, sir.

Q Have you been a member of the local planning

board of the community in which you live?

A Yes, I have.

Q What is the number of that planning board?

A Community Planning Board No. 7.

Q What years have you been a member of the planning board?

A From about 1964 until I resigned this January, January '74.

Q Did you hold any office during that time?

A Yes. I was vice-chairman of the planning board and chairman of various committees on the planning board.

Q You were vice-chairman of the planning board itself?

A Yes.

Q What years?

A '69 or '70 to '72.

Q What is the geographical boundaries of Planning Board No. 7?

A 59th Street to 110th Street, middle of Central Park to the Hudson River.

Q What is the role of the planning board?

A Its basic position is advisory to the Borough President of Manhattan in terms of the votes he has on the

Board of Estimate and any other activities he has, recommendations to the expenditure of capital funds of the city.

In essence, the board does get involved in instituting its own projects occasionally.

Q Would you finish your last answer?

A In temrs of the activities of the planning board?

Q The role of planning board.

A Basically it is advisory to the Borough President of Manhattan in terms of the votes he has on the Board of Estimate and his recommendation of expenditures of capital funds for the City, but in essence it can occasionally institute projects of its own.

Q How are its members appointed?

A By the Borough President in consultation with the members of the City Council.

Q Are you familiar with the term 70-30 as it relates to the West Side Urban Renewal area?

A Yes.

Q When did you first learn of that proposal?

A The proposal was made at the end of 1972 to the planning board.

Q When it was proposed, that was the first time you became aware of the term, is that correct?

A Yes.

Q Who presented the proposal to the planning board?

A The proposal was made by the legislatures in the area of the West Side Urban renewal.

Q WAs it made by all of the legislatures including the Congressman at that time?

A I don't think Congressman Ryan was involved. I think it was basically the recommendation of the State legislatures.

Q When that proposal was presented in 1972, what did you understand it to mean, the 70-30 term?

A It was presented to us and my understanding was that it was a recommendation that the remainder of the West Side Urban Renewal area should be 30 per cent public housing and the other 70 per cent was to be middle income financed under 236 or other available programs for middle income housing.

Q How did Site 30 as public housing relate to the 70-30 proposal?

A My understanding was that Sites 30 and 4, and I think Site 23 were all supposed to have been public housing sites packaged as part of that 30 per cent figure.

Q Turning to another subject, are you connected with an organization known as The Homeowners and Residents

Alliance?

A Yes.

Q When was that organized?

A 1970-1971.

Q Why was it organized? What were its purposes when it was organized?

A There was at the time some clamor about what the West Side urban renewal should be. It had been through several plans and the last plan was supposed to have been fixed and there didn't seem to be any concrete proposal for what should be done, rather a lot of voices raised, and our feeling -- the feeling of the Homeowners Residents Alliance was the proposal that the West Side urban renewal area should have more public housing than it presently constituted and that since subsidized housing was the essence of the whole thing that that subsidized housing should be more spread out among all of the units in the remainder of the West Side urban renewal.

Q What is the composition of its membership, the Alliance?

A Basically, primarily, homeowners, people who own homes or co-operative apartments in the West Side urban renewal area, as well as tenants, residents of the area.

Q Is it a member of Stryc[illegible]'s Bay, the Alliance?

A Yes.

Q Are you yourself a delegate to Strycker's Bay?

A Yes.

Q I have two questions about the planning board.

When did the proposal for Site 4 as public housing come before the planning board?

A The proposal came in the summer -- actually it came in the spring of 1970, and it was approved by the whole board in July of 1970.

Q What was the vote on that proposal?

A Over whelming, I can say. Almost unanimous.

Q When did the proposal for Site 30 as public housing come before the board, the planning board?

A It was approved by the board in July of 1971.

Q What was the vote on that proposal?

A The vote was broken down because there were several sub-proposals related to amendments to the overall approval but each of the votes was overwhelmingly in favor.

MR. DOUW: No further questions.

THE COURT: Mr. Land, anything?

CROSS-EXAMINATION

BY MR. LAND:

Q You testified I believe that the 70-30 concept

first came to your attention in 1972, is that correct?

A Yes, sir.

Q That was while you were a member of the planning board, is that correct?

A Yes.

Q For how long a period of time prior to 1972 were you on the planning board?

A Eight years.

Q If there were a concept of 70-30 would the planning board of necessity become involved with that concept?

A Yes. We were involved in all the changes in the West Side urban renewal.

Q Explain why the planning board is involved with all the changes, everything that was going on.

A Each individual site of the West Side urban renewal was presented to the planning board for approval of the design, approval of the sponsor, and construction and so forth.

THE COURT: So the 70-30 was not brought before the board?

THE WITNESS: Until 1972, your Honor.

Q Did the board vote as to the conversion of Sites 30 and 4 for low income?

A Yes.

Q What was the vote?

A Each vote was overwhelmingly in favor.

MR. LAND: No further questions.

THE COURT: Does anything occur to you, Mr. Liner?

MR. LINER: No questions.

MR. DOUW: That is all.

CROSS-EXAMINATION

BY MR. MORRIS:

Q What do you understand the 70-30 ratio to mean? Is it that 30 per cent of all the people in the whole West Side urban renewal area would be low income and 70 per cent would be middle income?

A No. The remainder, those sites remaining in the West Side urban renewal area.

Q Of the new buildings to be built?

A Yes, sir.

Q It was limited to that?

A Yes.

Q Are you aware of the fact that many of the buildings that were completed and occupied prior to 1972 did in fact have the 70-30 ratio?

A No, sir. I am not.

Q You are not aware of that?

A No, sir.

MR. MORRIS: That is all.

THE COURT: Mr.Schwartz, you may leave.

(Witness excused.)

MR. LAND: We call Captain Prezioso.

Your Honor, one thing as to the future witnesses. We had hoped to call Commissioner Coniglione. We have just been informed that the Commissioner is in the midst of a demonstration where 400 people are coming down to his office by bus. There is a demonstration problem.

THE COURT: You think you have got troubles.

MR. LAND: Indeed. So we may have a problem as to additional witnesses later on this afternoon unless that demonstration can be cleaned up. We think he should attend to that problem. That is what we are faced with.

THE COURT: Let's go as far as we can.

P E T E R J. P R E Z I O S O, called as a witness having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. LAND:

Q Mr. Prezioso, what is your current occupation?

A I am a captain in the New York City Police

Department.

Q With what precinct?

A 24th precinct.

Q For how long have you been a captain of the 24th precinct?

A Roughly eleven months.

Q Are you currently the highest ranking officer at the 24th precinct?

A Yes.

Q Could you tell us the geographical area that the 24th precinct includes?

A The geographical area runs from 86th Street to 110th Street on the west side, from Central Park West to the River.

Q That is the Hudson River?

A Right.

Q At the request of the Government did you make a statistical analysis of the crimes within the 24th precinct over the last several years?

A Yes, I did.

MR. LAND: Mark this for identification.

xxx (Defendants' Exhibit AJ was marked for identification.)

Q Captain, I show you a copy of Defendants' Exhibit

Aj for identification. That is the summary which you prepared?

A Yes, it is.

Q Of the criminal statistics?

A Yes.

Q Could you tell us as to Exhibit AJ for identification from what sources you obtained the figures that appear there?

A Well, in the years from 1970 to 1973, we have received in the department what is called a printout. It is a comparison figure we get on a monthly basis from headquarters with figures that are submitted by us on a monthly basis and compared to reports that headquarters compiles from its complaint index. I took the reports, the December reports, for 1973, 1972 and 1971, and I got the figures for the four-year period.

Prior to that, for 1966 and 1960, we used the previous report that was submitted to the fifth division which was an overhead command at that time, and the figures were gotten off of that report.

MR. LAND: Please mark this for identification.

xxx (Defendants' Exhibit AK was marked for identification.)

Q The reference figures which you used to make

your summary, were the reference figures official police statistics?

A Yes, they were.

Q On official police reports?

A Yes.

Q I show you a copy of Defendants' Exhibit AK for identification. I ask you, are these the official reports from which you made your tabulation?

(Pause.)

A Yes, they are.

MR. LAND: At this time I offer into evidence Defendants' Exhibit AJ and Defendants' Exhibit AK, copies of which have been shown to Mr. Morris.

MR. MORRIS: May I see them, please?

MR. LAND: Certainly.

(Pause.)

MR. MORRIS: May I have a voir dire?

THE COURT: Yes.

VOIR DIRE EXAMINATION

BY MR. MORRIS:

Q Captain Prezioso, in Defendants' Exhibit AJ for identification, which is the list you prepared yourself, you say you prepared this from the crime comparison report which is Defendants' Exhibit AK, is that right?

A That is not my handwriting. The report that you have in your left hand was prepared by my statistical officer and I checked it against the figures on the other reports.

Q You found that it checked out with the figures on this report?

A Yes, sir.

Q Do the figures on this report show any figures for 1960 and 1966?

A Yes, on the subsequent copies.

Q Show me where.

A I believe it is -- the last copy is 1960 and the one prior to it is 1966.

MR. MORRIS: One of these copies is totally illegible.

THE COURT: That is not my fault. You will have to get together.

Q Do you have more with you?

MR. MORRIS: Several of them are totally illegible.

1971 is illegible.

THE COURT: That is no good.

THE WITNESS: Take this whole thing.

THE COURT: Does that supply the deficiency?

Look at what the captain just handed you. See if that takes care of the situation.

(Pause.)

MR. MORRIS: Where is 1960 on this? I see 1966.

MR. LAND: That is only here as to this Xerox.

MR. MORRIS: That is illegible.

THE COURT: Here is what we do. Try to get a better representation of the exhibits AK and AJ.

MR. LAND: AJ is all right.

MR. MORRIS: It is legible.

THE COURT: Get a better copy of AK and substitute it.

MR. LAND: Substitute AK with this one whch is more legible.

MR. MORRIS: That doesn't have the 1960.

MR. LAND: That's right. We will leave 1960 off for the time being.

MR. MORRIS: Then I object to AJ.

THE COURT: He is putting it together as best as he can. He has part of it so he wants to rectify part. He is not saying you are not right. It is not offered in evidence right now until it is complete.

MR. LAND: We will seek to obtain a more legible copy of the police records official files for 1960.

However we do offer into evidence now Exhibit for identification AK, the official police record, for the years 1966, 1970, 1971, 1972, and 1973, that is the 24th precinct, together with Defendants' Exhibit AJ, being the captain's summary, except that the year 1960 which is on the summary should not be deemed in evidence.

THE COURT: The reverse. I will say you may offer it in evidence and if you don't supply the legible copy a motion to strike will be in order.

MR. LAND: As to that 1960 tabulation. Very well.

THE COURT: Any objection, Mr. Morris, with that distinct understanding?

MR. MORRIS: No objection.

xxx (Defendants' Exhibit AJ and AK were received in evidence.)

End 2 PM

Q Captain, will you endeavor to get another copy of the 1960 report so we can slip it in as part of the club?

A I will.

MR. MORRIS: Your Honor, there is one other point to this exhibit which I wish to call the Court's attention to.

THE COURT: Which exhibit?

MR. MORRIS: The two exhibits.

THE COURT: The last two?

MR. MORRIS: Yes, AJ and AK for identification.

THE COURT: They are in evidence.

MR. MORRIS: It should be noted that these exhibits apply to an area far larger than the West Side Urban Renewal area. They apply to an area from 86th to 110th Street, Central Park West and Riverside Drive, which includes the West Side Urban Renewal area but is a far larger area. On that ground, your Honor, I move to strike the exhibit on the ground that it does not give significant information relating to the problem before the Court in this proceeding.

THE COURT: What do you say, Mr. Land?

MR. LAND: I think Mr. Morris' own witnesses have testified that the relevant community to study

while studying the 20 block area includes the periphery. His own witnesses testified the periphery goes further north by several blocks, further south by several blocks and over to the river. There is no dispute that the relevant community study while studying just these ten square blocks includes the peripheral area and the 24th Precinct is representative of that relevant neighborhood.

THE COURT: I will take it. I overrule the objection. I will add, however, that if those figures within the area with which we are directly concerned were possible, I would be happier with it and I would give it even more weight than I can these. I mean the exhibits as they are now, AL and AK. It is a matter of weight. But they are admissible. The objection is overruled.

Q Captain, referring to Exhibit AJ, in front of you, for the years 1960 and 1966, could you compare the statistical reporting systems as applied to the years '60 and '66 as applied to the balance of other four years, '70 through '73?

A It's generally estimated in New York City that prior to 1970 the New York City Police Department had been criticized by federal sources in that our figures were not deemed to be creditable according to the FBI standards.

THE COURT: That is nothing new, is it?

THE WITNESS: No.

THE COURT: That is going back as long as I can remember, and that is 36 years, I can testify to that.

A But in 1970, an increased effort was made by the Police Department in New York and has continued to the present date to try to get as complete a reporting system as possible. By everyone's admission, we still haven't reached a point where 100 percent of the crime is reported.

Q Let me understand that. For the figures for the years '70, '71, '72 and '73 the 24th Precinct used the same method of statistical analysis, is that right?

A If anything, the method has improved during the three year period.

Q So the years '70, '71, '72 and '73 can be compared because they were prepared under the same method?

A I would say so.

Q However as to the years '60 and '66, the figures for those periods do not use the same sophisticated statistical analysis as the subsequent years, is that correct?

A That is true.

Q What we have here is the best that was available at the time?

A Right.

Q For the period 1970 through 1973 --

THE COURT: Hold it just a minute. Would you take your seat for a moment. I will take care of a brother of yours -- a brother-in-law.

(Laughter)

(Recess)

THE COURT: Please proceed.

BY MR. LAND:

Q Captain, Defendants' Exhibit AJ in evidence lists seven types of crime and statistics for the years so indicated.

Would you tell us why those seven types of crime were selected?

A Those are the seven crimes that the FBI lists as its seven major categories for reporting purposes so as to compare crimes throughout the country.

Q The crime that is commonly referred to as mugging, street mugging, under what category of the seven will we find all mugging?

A That would be under robbery.

Q Very briefly, I would like to have you describe

to the Court the difference between some of these types of crimes to understand the types of crime which have been reported here.

Could you tell us essentially what a burglary is?

A A burglary is a crime committed against a place, an apartment or a store. There is generally no confrontation between the victim and the perpetrator. A robbery is always a confrontation between the two individuals. It can be from behind, it can be a face-to-face confrontation, it can involve a weapon such as in a stickup or it can involve a street mugging type of rip-off crime.

Q Could you distinguish burglary and robbery from grand larceny?

A Very frequently grand larceny falls into the category of each of those two crimes. Grand larceny is a property crime that involves a certain amount of money or certain items such as credit cards --

THE COURT: Things of value.

A -- documents of public value, et cetera. The grand larceny category is sometimes duplicated where the robbery takes place or the burglary takes place if there is a sufficient amount of property to bring it into that

category.

Q I notice from the chart that all crimes had increased in numbers from 70 to 73 except for the category of felonious assault.

Could you distinguish felonious assault from the other type crimes listed here?

A Felonious assault is committed on an individual where there is no other motivation, there is no attempt to steal property, there is no attempt to commit a violation such as in the category of rape. Felonious assault is just an assault of a serious nature from one individual to another and there is no property involved.

Q I also want to indicate that the other crimes that have been increased from 70 to 73 include murder and rape but not to the same extent as felonious assault.

In the control of crime, do you distinguish between crime which you would characterize preventable crime and that which you would characterize as non-preventable crime?

A Generally speaking, in police work we don't regard a great number of murders and felonious assaults as preventable crimes. A great majority of them are committed off the street, a substantial number of them are committed between parties that are known to each

other.

Generally speaking, they are not intruder-type crimes, they are crimes that are committed away from police presence and they are not, in police jargon, preventable crimes, for the most part.

Q In order to ascertain whether a particular area has seen a decrease in preventable crimes, we want to concentrate our attention on the crimes of robbery, burglary, grand larceny and grand larceny auto, is that not correct?

A With a minimum of emphasis on grand larceny. The three greater preventable crimes are robberies, burglaries and grand larceny autos.

Q Captain, we observe that these figures on Exhibit AJ are for the entire 24th Precinct. Would these figures -- at least the percentages of the changes -- be relatively the same for just that area known as the West Side Urban Renewal area which includes the area Central Park West to Amsterdam Avenue, 88th Street to 97th Street?

MR. MORRIS: Objection, your Honor. No foundation has been laid for this witness being familiar with those figures.

THE COURT: He is a captain. If he couldn't

answer that I would be duty-bound to notify the commissioner.

What is your answer?

A Generally speaking, the West Side Urban Renewal area makes up about twenty percent of the geographical area of the 24th Precinct, and my general reaction to that question would be that it would reflect about 20 percent of the crime figures of the precinct.

THE COURT: All right.

Q Based upon the statistics in front of you as Exhibit AJ, in your professional opinion could you describe the nature of the decrease of crime, whether it's slight, medium or substantial?

A In what period?

Q The period 1970 through 1973.

MR. MORRIS: I will object, your Honor, on the ground that he is testifying as to whether it's a decrease or an increase. Let the witness tell us what it is. His question is, give the percentage of decrease.

THE COURT: What he is doing is edifying me with regard to exhibits. That's all he is doing. The exhibit is before me. I have it. I don't have it in front of me. No copy was given to me.

MR. LAND: I am sorry. Let me do that.

THE COURT: I am following it. Don't be

disturbed. I am explaining to Mr. Morris why I am allowing the captain to go forward. He is interpreting the exhibit, that is all he is doing.

You understand that, do you not?

THE WITNESS: Yes.

THE COURT: Thank you.

Q How would you characterize the rate of decrease of crimes in the period 1970 through 1973 in the 24th Precinct?

A 1970 to 1973?

Q Yes.

A In the year 1970 we showed substantial increases in the total felony category of almost 22,000 crimes.

In the years 1972 and 1973 we showed substantial decreases. So the trend seems to have been reversed following 1971.

Q And in the current year has that trend continued, the first five months of '74, if you have knowledge of the condition of crime in the area?

A Not as substantial as the two previous years.

Q But the decrease is continuing, is that not correct?

A I would say we are just about, on the fourth-month figures up to April of this year, we are just about

holding the level of crime for last year.

Q Captain, I would like to have you tell the Court of the types of crime preventive measures which the 24th Precinct attempts to carry out within the area.

A Well, first of all, we have our anti-crime patrol which is made up of approximately 24 men assigned in civilian clothes. They go out on foot patrol as well as automobile patrol in unmarked automobiles. We use a yellow taxicab as a base vehicle. We have several other cars not department type cars that are used for surveillance of certain locations where we indicate that there are crime patterns that justify that type of coverage.

The anti-crime men work in the general hours from 10:00 a.m. to 2:00 a.m. the following morning. We have two teams that are split up in two different groups. They alternate between a day shift and a night shift. We have two sergeants supervising that group of men and they, I think, have been the singlemost responsible effort on the part of the precinct for the decrease of crime in the past two years.

Q Can you give us an example or two of how this works in actual cases?

A Well, what we have done in the past years

specifically since I have been assigned there and that I can testify to is we have tried to identify patterns of criminality. By that I mean we have a crime analyst who looks over every reported crime we get in the precinct and puts together similar type patterns. We set up what we call a MO file, a modus operandi file, of the different individuals we have identified as having committed the types of crime that put them into some sort of a grouping. We then use our anti-crime men to patrol the areas or the types of buildings or the types of locations that we find are most prevalent in that type of crime.

In addition to that, we have an officer who is assigned to crime prevention work and he has gone out to people who have been victims of crime and in some cases people who have just contacted the precinct to have studies done on their premises, mostly commercial establishments. Very frequently we get calls from high-rise buildings who are interested in how they can better secure the premises.

The crime prevention officer goes out, as I say, to these groups and those individuals and explains to them how they can better secure the premises, how they can better make themselves less vulnerable to the particular crimes we are concerned about in the area.

Q In addition to the anti-crime patrol and the crime prevention officer, do you have a block watcher program?

A We have a block watcher program in the 24th that now exists of roughly 200 civilians. These civilians are given identification numbers so that if they call in to 911 or the precinct to report a crime or to report a condition that perhaps may become a crime, their names are withheld. There is confidential treatment of any calls received from the block watchers. The response is given, the calls are given out, and we maintain the confidentiality of the block watchers. It's been a very successful program in our precinct because previously where people were afraid to report certain conditions for fear or retaliation, this confidentiality and the anonymity that is maintained has allowed a lot of these people to come forth and join the program.

Q In addition, do you have a program known as the block security program?

A The block security program came into being just within the last year, and it's a matching funds program, where the city matches on a decreasing scale funds put up by block associations, by tenants groups for any measures that would involve security affecting a group

of people. Some of the measures that have been put into effect have been alarm systems, installation of lights outside of some of the buildings, installations of buzzer systems within large and small buildings. The one restriction that's placed on the use of funds is that none of it be utilized for salaries. We have several block associations who employ private guards.

Now, some of these funds can be used to provide equipment or uniforms for the guards but not to provide salaries.

Q In addition, do you have a program known as the neighborhood team concept?

A Well, the neighborhood team concept is not a program. It is the 24th Precinct. The 24th Precinct is divided into six neighborhood teams. Basically, neighborhood team number one takes in a large proportion of the West Side Urban Renewal area. I could list numerous benefits of the neighborhood team concept. The primary one would be the fact that each of the teams is headed by a sergeant who acts as a commanding officer of that particular team. He attends the various block association meetings, the tenant's association meetings and is aware of all of the conditions that should come to my attention or to his attention as a team commander.

If problems are of a minor nature, he frequently puts in the solutions and apprises me of that. If it's something that requires manpower or perhaps policy type statement on my part, he will bring these problems to my attention.

Q In other words, by reason of the success of the neighborhood team concept, would it be fair to say you have gotten down to the grass roots and gotten personal contact with the residents of the area?

A I would hope so.

Q In addition, do you have an auxiliary police force?

A We presently have an auxiliary police force in the neighborhood of 60 civilians who patrol six nights a week, sometimes we get them on Sundays on a call basis if we have a particular problem that comes up.

They have been averaging between 800 and 1,000 patrol hours a month since the first of this year. They are civilians. They are not paid. They are voluntary people. The only provision they get is the uniform allowance. They generally patrol from 3 to 4 hours on any night that's convenient with their schedule.

Q Do they carry any equipment such as walkie-talkies?

A They carry walkie-talkies, yes.

Q Do they wear a uniform?

A They wear a uniform that is identical to the Police Department uniform with the exception of large patch on the left shoulder which indicates they are auxiliary police, and the shield is not similar to the Police Department, it's a square type shield.

Q In addition to the auxiliary police force, do you have a community service officer?

A This is a recent program that came out of Model Cities. We recently were assigned 15 community service officers. They are young people in the neighborhood of 17 to 25. We have utilized them around the various schools in the precinct, predominantly the elementary schools and in some of the playground areas.

Q The above programs you have described, would you characterize those programs as being relatively successful?

A Yes, I would.

Q Would you say that those programs have led to the stability of the neighborhood and the decrease of crime?

A Again, I would hope so.

THE COURT: Are there in your estimation --

by the way, would you tell us how long you have been a cop?

THE WITNESS: I have been in the department eighteen and a half years.

THE COURT: We can talk plain language. I have been around much longer than that. Is it working fairly well?

THE WITNESS: Yes.

THE COURT: Do you see some results?

THE COURT: Everybody wants perfection, you know. They want a tabulation of every little thing, but do you have a feeling that its working out?

THE WITNESS: It's more than a feeling.

THE COURT: Good, good.

THE WITNESS: When I look ~~like~~ at a situation like the robbery class figures, which is the crime we get the most concern about from people, this is the crime that people are concerned about, the rip-off, where they may possibly lose their lives or be seriously injured, and we have witnessed an almost 50 percent decrease over the last two years.

THE COURT: Do you find any abuse of power by those non-salaried or the volunteers? Do they show off, make a nusance of themselves?

THE WITNESS: On the contrary, I think they have played the situation very low key.

THE COURT: Good. Do they seem to really try their level best to do what they are supposed to do? Do you get that impression?

THE WITNESS: You are talking about the auxiliaries now?

THE COURT: The auxiliary.

THE WITNESS: We are working on this constantly. The program was rather small a year ago and the increased numbers of course has brought in a lot of young people who have the right motivation but need that constant training and constant supervision on our part so that they do in fact not replace the police officer but supplement the police efforts on the street.

THE COURT: One final question. What do you do to determine who the guy is who is coming in? "I want to help. I am a neighbor. I want to be one of these guards. I want to help the police." What do you do?

THE WITNESS: The first thing we do is we fingerprint the applicant and we process the fingerprints through the facts system. This tells us if there is any record of previous arrest.

We don't necessarily exclude a person because

of a previous arrest. It would depend on the circumstances and the type of crime that he has been arrested for. If we get an older mature individual who perhaps was arrested when he was 16, 17 years old for shooting dice or something of that nature, we tend to disregard that as not being something detrimental to his character.

THE COURT: What do you do about finding out --

THE WITNESS: Then we check his residence. If he has recently moved into the precinct, we try to make -- we make an effort to check his previous address through the local precincts to find out if he in fact was known to any other police officers as a problem.

THE COURT: All right. Anything else?

MR. LAND: Yes, your Honor.

BY MR. LAND:

Q Can you tell us the kind of problems you are having with street gangs?

A In the 24th Precinct in the last two years we don't know what street gangs are.

Q Have you had occasion --

A If that answers your question.

THECOURT: It certainly is an answer. I am telling you its very good to hear it. Amidst all the muck and mire and the junk and the filth, it's a nice thing to pick up a piece of information like that.

Next.

Q Have you had occasion to work with Bernie Wohl at the Goddard Riverside center? Will you tell us the kind of work the Police Department does with the center?

THE COURT: I don't need that. He gave a very good description. There was no cross examination on that point.

MR. LAND: I will make it one leading question, then, or two.

Q Have you had occasion to have 40 openings at the center's camp in which you selected 40 youngsters who were starting down the road toward crime or had some limited criminal record and as a result of them going to the center and working at the camp that they have to some extent not fallen into the trap of crime?

A Generally speaking, each year Goddard Riverside makes known to the 24th Precinct the availability of certain funds donated that has created space for children at camp. The figure of 40 would probably be a good approximation of that situation. And they generally get in touch with our community affairs officers and the precinct CO. Of course, last year I wasn't in this position so I don't know what the specific number was involved. This

type of referral is something that we do with Goddard Riverside on a year-round basis. The availability of camp space during the summer months has enabled us to recommend certain young individuals that we feel might be a problem and might benefit more from the camp situation.

Q Could you tell us of the Police Department's efforts to assist the senior citizens?

A We started a pilot program last year with a senior citizens day which we continue on this year. June 13 is our next senior citizens day. That is a day where we reach out to all of the homes in the community as well as the residents that just live in the community and we structure a program that takes the entire day where we advise the senior citizens in the community what they can do to make themselves less vulnerable to particular crimes such as burglary and robbery.

We have several films that we show; we have several demonstrations we put on as to different type locks that are used, different type security measures, devices that we explain to them about how they can be more aware when they are walking the streets and to talk on busier streets, et cetera.

Q Do you have a new program starting relating the senior citizens to the youths?

A We are presently working on a program with the Mayor's Task Force for the aged which will involve an escort type service. We are trying to bridge the gap between the young adults, the teenagers and the elderly. There seems to be a fear on the part of the elderly of teenagers per se. There is a threat in there minds that is carried out every time one of these teenagers is seen on the street.

The escort service, as we see it and will hopefully be underway sometime in December, we will get recommendations from the local high school and try to do some recruiting at the college level, at Columbia and City. What we intend to do there is to set up an escort service where elderly people in the community who perhaps would have a bank visit or a visit to a doctor or to a senior citizens program and call us at a listing which will be channeled through the Police Department and we will provide as much as possible the escorts for that type of short term trips that the elderly citizens would be making.

Q Looking to Exhibit AJ, it would seem that for the year 1970 we had 1630 robberies which would be approximately four robberies a day. Isn't that a significant number of robberies per day?

A Did you say 1970?

Q '73. 1630, robberies for 1973 which I estimace is about four a day. Wouldn't you say it is a significant number of robberies a day?

A Well, it i s a significant number, but if you consider the fact that we have somewhere in the neighborhood of 161,000 residents in the area of the 24th Precinct and that the 24th Precinct for years pretty well led to city in this area and led the city in a negative fashion, we now rank in the 20 or 30 category out of 70 precincts. So although the figure to me is unpalatable at this time, it is a far sight better than what it had been two years ago.

Q Captain, we have had some testimony during the course of the trial that there are a number of squatter buildings located around Columbus Avenue and 88th Street which is a source of a number of problems.

Could you comment on the problems that are created by the squatters of which you have knowledge?

A We have only had one squatter probelm that has surfaced recently to my attention, and that was on 88th Street about two weeks ago. When we went to remove the squatter from the apartment, there were no problems with any outside group that attempted to make this an issue. The squatter left voluntarily and the city

representatives from the Department of Relocation, with our assistance, carried the off very well.

Q Captain, some people may associate crime with low income persons. This may be fallacious, it may not be.

Could you give the Court your professional opinion as to the type of crime problems which you experience, for example, at the Stephen Wise low income housing project in which there are many families, whether the problems you have there are of a greater extent than you would have in a middle income project?

A Well, it's generally believed in police circles that a certain amount of poverty and need will create an atmosphere for especially property related crime.

Specifically, Stephen Wise as compared to, say, a comparable situation in Douglass Housing, which is at the other end of the precinct, I see no larger proportion of crimes being committed in the Stephen Wise as opposed to Douglass.

Q Douglass is much larger, is it not?

A If we had to make a ~~valid~~ valid comparison, I would have to take one building from Douglass and make that comparison, and I see no great difference.

Q Based upon your experience, has not the type

of crime which is associated with low income persons diminished when those persons have decent housing and live in a family situation?

A I would have to say yes to that.

MR. MORRIS: Your Honor, I don't know that the witness is qualified to answer a question like that.

THE COURT: I disagree, Mr. Morris. If a policeman is alert and keen, he becomes a student of human behavior. He has to be on the lookout constantly for acts or deportment that are indicative of possible conflict with law. That's his daily job. He is always sensitive to this. He's got to be. He is held responsible for it. And so I don't know of anybody -- anybody -- I don't know of anyone, sociologist, with all great respect to them, and all the learned people in the academy, they cant beat a good cop who knows what's going on, in my book.

All right.

MR. LAND: No further questions, your Honor.

THE COURT: Anything from the city?

MR. LINER: No questions, your Honor.

THE COURT: Anything from Mr. Douw?

MR. DOUW: No questions.

THE COURT: Mr. Morris.

MR. MORRIS: Your Honor, may I permit Mr. Baker to conduct the cross?

THE COURT: Certainly.

I tell you, we will take a few minutes. It is a little warm in here.

A few minutes recess. Announce it.

THE CLERK: All rise. The Court will take a few minutes recess.

(Recess)

CROSS-EXAMINATION

BY MR. BAKER:

Q Captain, are you a commanding officer of the 24th precinct?

A Yes, I am right now.

Q Have you been there for 11 months?

A Yes.

Q YOu have been the commanding officer for those 11 months?

A I have been the commanding officer since April 1.

Q That is for the last six weeks approximately?

A Excuse me. It is March 1st.

Q Ten weeks. What were you prior to March 1?

A I was the executive officer of the 24th precinct.

Q Is your position now as commanding officer a permanent position?

A I can't really comment on that. The former commanding officer went away on a management exchange program and the future is beyond me to comment on.

Q So you don't consider yourself the permanent commanding officer of the precinct?

A I consider myself the commanding officer of the precinct at this time. If that situation changes two weeks

from now, so be it.

Q You are suggesting you have reason to believe that it may change?

A Yes, I have every reason to believe that the former commanding officer will be returned.

Q Where were you prior to coming to the 24th precinct?

A I was executive officer in the 25th precinct for six months prior to coming here.

Q And before that?

A Before that I spent four months in the Spanish language program at the American Express Language Institute.

Q In the two exhibits you were referring to are there any misdemeanor figures?

A In the AK figures there are total crimes reported. I just put together the figures relating to the felony crimes.

Q ~~Are~~ ARE the misdemeanor figures broken down in Exhibit AJ?

A Just on the total figure.

Q They are not broken down?

A Not by type of crime. They are broken down as a complete category misdemeanors.

Q Would what people generally consider muggings

possibly be entered into these figures, the misdemeanor figures?

A No way.

Q Let me call your attention to 1971 figures in Exhibit AJ. You may or may not know it, but the 1971 figures would be particularly important to this Court because certain decisions were made in 1972 which would be relying on 1971 figures.

Is it true that the murder figures are substantially the same from 1960 to 1971?

A That's true.

Q Between '66 and '71 are the rape figures the same?

A Exactly the same.

Q Robbery figures show an increase of about 14 times?

A That's true.

Q Felonious assault is down , correct?

A I would approximate that to be true.

Q Burglary is up four times from 1000 to 4000?

A That's true.

Q Grand larceny is similar?

A That's true.

Q Grand larceny auto is up approximately three

times?

A That's right.

Q Total felonies are up better than two and a half times?

A That's true.

Q Do you know how many guards were hired by either private institutions or block associations in the year 1970?

A No, I don't.

Q In the year '71?

A No, sir.

Q '72?

A No, sir.

Q '73?

A No, sir.

Q This year?

A No.

Q You have no idea how many guards there are?

A I have an approximate knowledge of some of the blocks that use the license security guards since I have been in the 24th precinct.

Q Approximately how many is that?

A I know of two blocks specifically. I would estimate there are several others I am not specifically aware of.

Q Do you know why people join your block watcher program?

A I would imagine they join because they are concerned about crime in the community and they feel that this is a possible way they can help us deal with the crime situation.

Q How many people participate in your block security program?

A The block security program?

Q Yes.

A We have currently 30-some odd proposals in varying stages of construction. Some of them the funds have been approved, some of them the funds are in the process of being approved, and some of them are just being drawn up as new programs.

Q Why do people make application for these funds to provide these kinds of security systems?

A Because of their concern for crime and their concern for their own safety.

Q Would you say that is a real concern in the community?

A I would say that in spite of the fact that we have made substantial decreases in crime over the past two years people nevertheless still have a fear of crime which

needs addressing on our part as the police department/ and also on the part of any programs that can be instituted to deal with that information, and the block security program is one such program.

Q There is no direct relationship between crime statistics and what people fear?

A I don't know if I could say there is a direct or indirect relationship.

Q Do you know whether there are narcotics in the Joan of Arc school?

A Sure there are narcotics there.

Q Do you know if theTrinity School has hired security guards?

THE COURT: Do you happen to know that?

THE WITNESS: I have no specific knowledge of that.

THE COURT: Next question.

Q Does part of your job entail going to various community meetings?

A Most of the smaller community meetings are attended by the neighborhood team sergeants, by that I mean the block associations and the tenant groups.

The meetings I attend each month are the community council meetings, the community council executive board

meetings, the meetings that involve the overall community as opposed to singularly one block or one building tenant council.

Q When you say the community council's meeting, are you referring to theStrycker's Bay --

A The community council that is the 24th precinct community council.

Q How is that made up?

A It is made up of people in the community that operate to some extent within the police department more as a means of providing a meeting place for the monthly meetings, both the executive board meetings and the general membership meetings.

Q That meeting has no particular relevance to the West Side Urban Renewal area?

A It would have no -- it is made up of people --

Q The question is, that meeting would have no particular relevance to the West Side Urban Renewal area?

A I don't know if I could say that --

Q Thank you. That is the only community meeting you attend?

A I didn't say that.

Q With regularity?

A With regularity, yes.

MR. BAKER: I have no further questions.

REDIRECT EXAMINATION

BY MR. LAND:

Q Captain, referring to Exhibit AJ in front of you, you testified, did you not, that the figures for the years 1960 and 1966 used a different method of calculation and analysis than the figures for the years '70, '71, '72, and '73, is that not correct?

A I don't know if I said it was a different method that was used. What I meant was the Department had less of a checking system to verify the validity of those figures.

Q From '60 to '66?

A The precincts themselves reported the crime as they documented it on paper.

THE COURT: Wait a minute. Let's cut it short.

Did you not say -- and I happen to know it is so -- from '70 on the police ~~department~~ department throughout the City of New York has a better setup for the compilation of crime statistics than they ever did have before?

THE WITNESS: Yes.

THE COURT: You have new methods. They are not endorsed completely by the FBI, but some of what the

FBI wants and insists on have been adopted by the city? Isn't that so?

THE WITNESS: Yes.

THE COURT: So they are better figures, more accurate, and there is a greater certainty, but you don't maintain you are ready to guarantee them, are you?

THE WITNESS: That's right.

Q It is possible, is it not, that the figures for 1960 and 1966 do not include all crimes which in fact occurred?

A That is true.

THE COURT: I cannot accept any of this material with exactitude. It is just an indicator, that is all.

Q Captain, were you not a patrolman for the 24th precinct during the 1960s?

A I was a patrolman in the 24th precinct from 1956 to 1966.

THE COURT: Why wasn't that brought out in the beginning? What did you save it for?

Next.

Q During that period when you were a patrolman did you become familiar with the neighborhood?

A Of course.

Q Could you compare the incidents of crime that you observed during that period of 1960 to what you observe now?

THE COURT: I am sorry. I won't take it. It does not impress me.

Look, gentlemen, the Court does not need any information from anyone in this regard. Every worthwhile citizen would hope for the day when there would be a curtailment of it and where it would be minimized so that you can, with safety, go about our daily work.

I have not been idle in noticing the acceleration of crime. I think every citizen is aware of it. What are we to do in addition to measures to curb it? Are we to stop building? Are we to stop having a concern for the low income people? Are we to stop doing something about the middle income group?

I don't see the value of presenting all this stuff except with respect to the restricted area that Mr. Morris developed.

To try to show me crime is going on or it has been lessened only has a certain amount of value, but it is very small in its total value because that is the situation through the whole city.

I have gotten enough as to what is going on in

the area in which we are concerned. When you attempt to get into such detail with figures that are concededly just a broad indicator I think that you are wasting the Court's time.

MR. LAND: I think the captain testified that the figures for the years '70 to '73 are more than a broad indicator. They are reasonably accurate. They are as accurate as police methods can make them. If these figures are accurate and they do show quite conclusively from the period 1971 through 1973 there has been a substantial decrease in crime in this area, I think one of the important characteristics of a neighborhood when you consider the tipping issue is what is the trend in crime in recent time.

If crime has decreased in recent times in an area, I think one would conclude that that area is less likely to tip.

THE COURT: That is an argument. I appreciate that.

You are spending time on details that do not help me in order to adopt what you maintain. I am already impressed with the fact that there is a decrease in crime. I would be so impressed if he told me based on his knowledge there has been a decrease in crime. That would be sufficient for my purposes.

When you are trying to get every last drop out, then I say you are not helping me any and I wonder if we are getting anywhere.

MR. LAND: I wanted some sense of accuracy.

THE COURT: He has told us everything on that score.

MR. LAND: Maybe he was confused.

THE COURT: The captain?

MR.LAND: One last question as to accuracy of figures.

THE COURT: Be careful who you are talking about. Did you say the Judge was confused?

MR. LAND: No.

THE COURT: Who was it besides you?

MR. LAND: Me and me alone.

Q The figures for the years 1970,1971,1972, and '73, onExhibit AJ, are those figures in your opinion reasonably accurate as to the crimes committed within the 24th precinct on a statistical measure done by the New York City Police Department and under generally accepted methods of reporting crime?

A As reasonably accurate as can be achieved at this time.

THE COURT: Based on your personal observation,

would you say that there has been the kind of decrease in crime reflected in a general way by these statistics?

A Yes.

MR. MORRIS: Does that apply to the West Side Urban Renewal area? His testimony is to the 24th precinct.

THE COURT: Can you help us out on that?

THE WITNESS: I would say that the West Side Urban Renewal area is reflected in the figures pertaining to the 24th precinct, proportionately about 20 per cent of the figures.

MR. BAKER: I have one question.

RECROSS-EXAMINATION

BY MR. BAKER:

Q Isn't it true, Captain, that Exhibit AK shows an increase in misdemeanors between 1971 and 1973?

A My figures indicate the total misdemeanors for the year 1973 were 353.

Q I read this to show the total was 1600 and --

THE COURT: Tell us what you see,Captain.

THE WITNESS: Total misdemeanors for 1973 were 5163.

Is that the figure you are looking at?

Q I have 1607 (indicating).

A These are arrest figures. Here is total misdemeanor figure here.

THE COURT: What is the total figure for 1973, please?

THE WITNESS: 5183.

THE COURT: What was it for '72, misdemeanors?

THE WITNESS: It was 4907.

THE COURT: What was it for '71?

THE WITNESS: 5184.

THE COURT: So there has been something of an increase in misdemeanors, has there not, in '73?

THE WITNESS: In 1970 it was 6400.

THE COURT: This was something of a decrease compared to 1970?

THE WITNESS: Yes.

Q '70 was a high year and then '71 was a lower year and then it is increased since '71?

A I testified before that '70 was the year that we instituted the various changes in procedures in trying to increase the reporting of crime.

Q It was high in '70, low in '71, and it has increased since '71?

A This is the misdemeanor picture?

Q Yes.

A Yes.

Q And the arrest picture is similar, arrests for misdemeanors?

THE COURT: Is it arrest figures for misdemeanors only, or does it include all?

THE WITNESS: When I prepared the figures, your Honor, I prepared them leaning predominantly on the felony picture.

Q Isn't it true you prepared them solely on the felony picture?

A Yes.

THE COURT: You will admit that a good percentage of misdemeanors are pretty serious offenses?

THE WITNESS: Yes.

THE COURT: They are the beginning stages of felonies, aren't they?

THE WITNESS: Yes.

Q They give rise to fears.

THE COURT: That I don't need him on. I know that is so.

Q With regard to misdemeanor arrests, the pattern being fairly high in '70 and a drop in '71 and an increase in'71 to date --

THE COURT: He agreed with you. He said so.

MR. BAKER: I have no further questions.

THE COURT: Anything else of the captain? He undoubtedly has other work to do.

Are you on duty now?

THE WITNESS: Yes.

THE COURT: You are excused.

(Witness excused.)

THE COURT: Off the record.

(Discussion off the record.)

(Adjourned to Friday, May 17,1974, at 9:00 A.M.)

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